

Present: Hollinshead, Laidlaw, and Wilson – Birmingham
Borgon, Delaney, Lacroix and Woodard – Beverly Hills
Ettenson – Bingham Farms
Anderson – Franklin

Absent: Bello - Birmingham

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

Borgon called the meeting to order at 7:50 a.m. in the Village of Beverly Hills municipal building at 18500 W. Thirteen Mile Road. Borgon welcomed new members appointed to represent the City of Birmingham, Peter Hollinshead and Lee Wilson.

MOTION by Laidlaw, seconded by Lacroix, to amend the agenda to add an item, “Enter into closed session to discuss attorney-client privileged material.”

Motion passed unanimously.

APPROVE MINUTES OF MARCH 20, 2002 CABLE BOARD MEETING

MOTION by Ettenson, seconded by Delaney, that the minutes of the March 20, 2002 meeting of the Birmingham Area Cable Board be approved as submitted.

Motion passed unanimously.

COMCAST RELATED TOPICS

Comcast Performance

Board members have received copies of a letter dated April 17, 2002 to Kate Ebli, Vice President of Comcast Cablevision of the South, notifying Comcast of subscriber complaints received in the last month. The letter lists thirteen subscriber complaints received subsequent to the March 20 letter to Comcast.

MOTION by Delaney, seconded by Ettenson, to authorize the chairperson of the Birmingham Area Cable Board to issue a letter to Kate Ebli, Area Vice-President of Comcast Communications, Inc., dated April 17, 2002 that will accompany subscriber complaints received this month and place Comcast on notice of new defaults.

In order to expedite the complaint process, proposed liquidated damages have been included on complaint forms for this month. Borgon, Hagaman and Mike Salhaney from Beier Howlett have reviewed each complaint and recommended the amount of liquidated damages to be assessed. A conservative approach was taken in assessing damages.

Borgon began a review of the complaints listed in the April 17 letter. DiMaria responded to each complaint with information as to its resolution.

Complaint #02-59: The complaint from Jim Lane of Birmingham involved problems with cable installation, billing issues, and Internet service installation. DiMaria stated that Comcast representatives talked to Jim Lane about his billing errors and issued him a \$160 credit for his inconvenience. DiMaria indicated that Lane was happy with the credit.

Hagaman stated that liquidated damages on this complaint were assessed at \$4,000. Billing problems for 30 days @\$100/day = \$3,000. With regard to customer service, the subscriber had to talk to six people. The suggested fine is \$100 per occurrence or \$600. Four service appointments were unsuccessful for a fine of \$400.

Complaint #02-60: The complaint from Kathy Murphy of Birmingham is related to an intermittent service problem and customer service problems. DiMaria explained that Comcast had to replace a portion of its hard line feeder cable to this home. This subscriber was issued a credit of \$56.81 for one month's worth of service.

Hagaman related that this customer had no service from March 9 – 22. (\$1,200); there was a missed appointment on 3/14 (\$100); Comcast had no log of her problems and the customer had to describe the problem each time she called (\$100); there was no cable in the bedroom from 3/22-4/9 (\$1,800); customer was given misinformation on 3/20 (\$100); there was a missed appointment on 3/21 (\$100). The total liquidated damages on complaint #02-60 are recommended at \$3,400.

Laidlaw noted that these assessments appear to be the maximum amounts allowed for charging liquidated damages. Borgon responded that Hagaman, Salhaney and he were conservative in the number of days, outages, and missed appointments. It was felt that assessing \$100 per day for liquidated damages was reasonable. Borgon noted that the complaints were reviewed by the committee of three before DiMaria resolved these issues with the subscribers.

Delaney stated that there was agreement at the last meeting to review the procedures for handling complaints and provide some consistency with respect to assessing liquidated damages. Delaney talked to Currier about this and thinks we are moving in that direction. Delaney suggests going through these complaints without making any changes to the recommended damages with the understanding that the Board may possibly come to a settlement with Comcast over the previous liquidated damages.

Complaint #02-61: The complaint from Frank Lutz of Birmingham deals with picture quality and customer service. His high-speed Internet issues were resolved. DiMaria stated that intermittent picture issues were fixed by replacing a hard-line wire. A credit of \$93.81 was applied to the customer's account on 3/25. DiMaria contacted Lutz, who indicated that his service was working properly and he was satisfied with the credit.

Hagaman outlined the recommended liquidated damages. Poor picture quality 49 days x 100 = \$4,900; No call backs 2 x \$100 = \$200; Second complaint #02-64 poor picture 3/22-4/9 = \$1,800; Ill trained technicians 3 x = \$300 for a total of \$7,200.

Complaint #02-62: This was an Internet complaint from Michelle Haggerson of Birmingham. The Board has no authority over Internet related service. DiMaria referred to the customer's detailed communication. A Comcast customer advocate and an Internet manager for the region contacted the customer to discuss her issues and concerns. She was issued a \$224.95 credit for the issues she has had since January.

Ettenson expressed concern with the quality of service from people working at the call center. Questions from the Board on Internet support were addressed by DiMaria along with staffing levels during the transition. DiMaria mentioned that Comcast is building an additional tier one support center in Ann Arbor to provide local support for the product.

Complaint #02-63: Dave Leckie of Bingham Farms has communicated a service problem with respect to wiring a DVD player to work with his digital cable service. DiMaria spoke with Leckie and had the equipment hooked up.

Liquidated damages are proposed in the amount of \$300 because Leckie called Comcast three times, and the system hung up on him.

Complaint #02-64: This was an additional complaint related to Complaint #02-61 from Frank Lutz.

Complaint #02-65: Randy Meono filed a complaint regarding a billing problem. DiMaria stated that there was an error on his franchise fee payment coding. Comcast customer advocate spoke with Meono and adjusted his bill.

Hagaman stated that it is being proposed that liquidated damages be levied on this complaint in the amount of \$200, \$100 for the incompetence of the customer service representative and \$100 for the billing error.

DiMaria distributed a handout that is provided to call center employees regarding how to explain franchise fees. This sheet has been reissued to the staff.

Complaint #02-66: A complaint from Judy Kebl of Birmingham dealt with a billing problem and a remote control problem. DiMaria stated that this customer needed assistance with programming a remote, which the customer advocate was able to do. Additionally, a customer service package that offered a discount expired after a six month offer. The advocate explained how the changes affect the customer's bill. She was given information on other packages available.

Hagaman stated that the assessment of liquidated damages was determined prior to the response from Comcast on this problem. It is proposed to assess \$300 for three service calls with no fix, \$300 for billing errors, and \$100 for "bait and switch" tactics for a total of \$700.

MOTION by Woodard, seconded by Laidlaw, to revise the liquidated damages assessed to Comcast in Complaint #02-66 from \$700 to \$300 removing the assessment for billing errors and bait and switch.

Ayes - Anderson, Borgon, Ettenson, Hollinshead, Lacroix, Laidlaw, Wilson and Woodard

Nays - Delaney

Motion passed (8 – 1).

Complaint #02-67: A complaint was received from Ed Geran of Beverly Hills related to modem pricing and billing issues. DiMaria stated that the cable modem charge was the only issue brought up by this customer when the advocate spoke with him. Cable modem options were explained including buying his own modem.

Hagaman stated that Geran informed her of an increase in his bill with no changes to his service. She does not think there has been a response from Comcast on his billing issue. It is suggested to assess liquidated damages in the amount of \$200 for a billing error. DiMaria will check this customer's bill and follow up at the next meeting.

Complaint #02-68: Tom Grobbel of Birmingham submitted a complaint about lack of support from Comcast on an Internet problem. DiMaria stated that a technician came to the subscriber's house and fixed the issue with the Windows XP patch and provided connectivity to the Internet service. The matter of a supervisor refusing to talk to the customer has been addressed with the appropriate person.

Complaint #02-69: Alan Ostfield of Beverly Hills filed a complaint about a billing problem. DiMaria stated that attempts to call this individual have been unsuccessful. The phone number provided appears to be incorrect. Hagaman indicated that the home number is correct but the office number indicated for this individual is not valid. DiMaria will look into whether a message from Comcast was left at the home number.

Hagaman stated that liquidated damages were assessed on this complaint in the amount of \$200 - \$100 for the billing error and \$100 for staff incompetence.

Laidlaw questioned the status of liquidated damages assessed against Comcast in February. Currier answered that Comcast responded that they understand the procedures under the Consumer Protection Ordinance and the Franchise Agreement. The procedure is that the consortium communities can draw down on the letters of credit that have been filed with each municipality. This has not been done as yet because at this time Comcast has not exercised its rights under the Franchise Agreement with respect to appeal. He added that there has been discussion about resolution of the issues with Comcast.

Complaint #02-70: Andrew Schmidt of Birmingham reported a billing problem. DiMaria stated that he will provide the Board with information that the advocate sent to the customer regarding package changes. Comcast did a combination of direct mail and phone calls to customers about changes in the packages informing them of alternate packages available. The customer told Comcast representatives that he would like to compare Comcast prices with a satellite dish

Hagaman stated that the liquidated damages are recommended for “bait and switch” tactics in the amount of \$100 and for a service problem at \$100 for a total of \$200.

DiMaria said that there is a start and end date to Comcast promotional offers. He noted that the channels may change over time with packages.

MOTION by Woodard, seconded by Anderson, to remove the assessment for “bait and switch” from the liquidated damages proposed for complaint #02-70.

Hollinshead commented that the complaint indicated that the April bill contained the offer sought by the customer. DiMaria responded that typically Comcast gives the customer 30 days notice of changes in the packages. In this case, Comcast did a direct mailing due to some old packages dating back to MediaOne days that were still on the books for a small number of people. There have been changes to the channel line up since that time. Comcast provides notification and asks the customer to call Comcast to hear about different offers available in the market.

DiMaria stated that most of the packages are of a six month duration. Typically, Comcast tries to tell customers that a promotional offer is good for X number of months.

Ettenson suggested that Comcast might avoid this situation in the future by clarifying the issue so that people realize that there is a specific expiration date.

Ayes: Wilson, Borgon, Woodard, Anderson,
Nays: Hollinshead, Laidlaw, Delaney, Lacroix, Ettenson
Motion fails (5 – 4).

Complaint #02-71: A complaint from Phil Handleman of Birmingham involved a picture quality problem and customer service problem. DiMaria stated that a Comcast customer advocate called the customer to make sure the CNN channel was working properly. The Comcast call center director contacted the customer regarding the treatment he stated he received so that the director could deal with the individual at the call center appropriately.

Assessment of Liquidated Damage: Poor picture quality for 3 days = \$300; Response “will get around to it” = \$100; Unprofessional behavior = \$100; Refuse to connect to supervisor = \$100; No call back from supervisor = \$100, for a total of \$700.

DiMaria stated that last month there were TV guide channel problems that lasted two days. The customer was given a \$92 credit at the Board’s request. Occasionally, individual channels experience trouble that does not originate with the cable provider. DiMaria asked the Board to keep that in mind. He noted that there were some issues with how this complaint was handled, but a fuzzy channel could be due to a myriad of things that are not within the control of the cable company.

Ettenson commented that complaints #68 and #71 have to do with attitudes and responses of supervisors. He thinks that is indicative of a serious management problem. The fact that Comcast has 3,000 calls a day is not an adequate defense.

DiMaria disagreed. If he and management did not take these problems seriously, he would not have the call center director get on the phone with this customer to find out exactly what happened. He maintains that Comcast is putting effort and resources into doing everything possible not only to address individual customer issues but to resolve some of the other problems. DiMaria issued an open invitation to each board member to visit Comcast's call center operation. He thinks it is important for a fundamental understanding of how they operate.

Laidlaw questioned whether these defaults should be stated in terms of their violation of the ordinance.

Currier responded that they are violations of the ordinance in the sense that they are subscriber problems, which means any malfunction of the system as described in the Birmingham Ordinance Section 32.252 (c).

Vote on Motion to issue April 17 letter to Comcast on notification of subscriber complaints:

Motion passed (9 – 0).

MOTION by Delaney, seconded by Ettenson, to assess liquidated damages and/or rebates for violations of Consumer Protection Standards of the Franchise with the revisions acted upon at this meeting.

Ayes: Anderson, Borgon, Delaney, Ettenson, Hollinshead, Lacroix, Wilson and Woodard
Nays: Laidlaw

Motion passed (8 – 1).

Borgon raised the topic of Comcast policy on collection of past due accounts.

Delaney stated that the Cable Board has received two complaints in the last several months regarding Synergy Communications, the collection agency that Comcast employs to collect on past due accounts. The Board felt that these two instances are serious matters, and DiMaria was asked to address its concerns. Board members are specifically interested in the policy and procedures being followed by Comcast and Synergy.

DiMaria stated that Kate Ebli provided Board members with a letter dated March 28, 2002 regarding the procedures. Ray Segler, President of Synergy Communications, is present to discuss how his company operates and the procedures used by his employees.

Segler stated that Synergy Communications has been in business for about six years and has been in this marketplace for five years working for Comcast. The company has been working in this consortium for the past four years. He maintains that the company does not receive many complaints, and it does take customer complaints seriously. Segler remarked that he did communicate with this particular employee immediately.

Comcast's procedures prior to issuing work orders to Synergy were reviewed. Comcast attempts five contacts, two in writing, one electronic, and two by phone before the delinquent accounts are given to Synergy to attempt to collect in person. Comcast does everything it can to save a customer from being disconnected. At the point in time when Comcast would have previously issued a non-pay disconnect work order, they give those work orders to Synergy. Synergy attempts to contact the customers at their houses on Friday through Monday when people are typically home. At least two contact attempts are made before the service is terminated. If a customer is not home, a door hanger is left to indicate that Synergy was there and that they will come back the next day.

Questions from Board members on the collection process were addressed by Segler and DiMaria. The issuance of the non-pay disconnect work order was discussed with respect to who issues the order and when it is issued. The way it is currently set up, Synergy receives the work order 60 days after the first bill is not paid. The agent goes out to the homes on Friday-Monday and do not make a call before 8 a.m. or after 9 p.m. They try not to go to a house after dark. Segler stated that the Synergy employees have Comcast ID badges and Comcast truck signs.

In answer to an inquiry, Segler stated that customers make payment to Comcast by either cash, check, money order, or credit card. Customers are encouraged to pay the representative in the field who has the actual disconnect work order. Comcast has a procedure established whereby, if a customer goes into the office and pays, this is called out to Synergy as a canceled disconnect. If the customer disregards the Synergy agent and pays the bill to Comcast, Synergy could potentially complete a disconnect on a customer who has already paid.

It was learned that Synergy is only paid for the number of customers who are retained. Synergy employees are paid on a commission for collection.

Delaney made the point that Synergy should not make the representation that the customer can only pay Synergy. Comcast will accept payment after a work order is issued to Synergy.

DiMaria stated that, at the point that the customer does not pay the amount due to Comcast's agent, Comcast issues a hard disconnect order to remove that customer from the line. There is a chance that the customer can reach the Comcast office before the hard disconnect is made.

The Board addressed a specific complaint from Mrs. Phillips of Birmingham about an agent from Synergy. Segler was asked about the agent's attempt to collect more money than was owed to Comcast.

Segler explained that there are two different balances on work orders issued, a current balance and a delinquent amount. The agent shows the customer the work order with the two amounts. Synergy attempts to collect the full current balance to get the customer out of non-pay. That was the amount requested from Mrs. Phillips. When she called customer service, she was told that she owes only the delinquent amount. That amount was accepted from her.

Segler was asked about the procedure if there is a dispute that caused the subscriber not to pay. He responded that the procedure is to contact Comcast customer service and explain the situation.

Often they tell the agent not to disconnect the customer until Comcast gets the problem resolved. If there is a billing error, the work order is canceled at that time.

Currier then discussed the Comcast complaint log. Comcast was asked to provide the Board with a copy of its complaint log listing complaints registered directly with Comcast and those that came through the Board. The Consumer Protection Ordinance states that it is the franchisee's responsibility to submit to the Board a quarterly complaint log. The complaint log received from Comcast as a result of last month's request does not include the names of the complainants. The CPO requires that the names of the subscribers be provided to the Board. The log should also indicate when action on the complaint was taken.

DiMaria will provide this information in a new format with headings. He will include a cover letter with the revised complaint log.

Delaney left the meeting at 9:20 a.m.

Internet Status – Franchise Fees

DiMaria stated that Comcast has notified the communities that it will not collect franchise fees on cable modem service going forward based on a Federal Communications Commission ruling classifying Internet service as an information service and not as a cable service. Comcast has notified its customers that this will save subscribers about \$3.50 month.

Currier remarked that those fees went to the communities and not to Comcast. This FCC ruling will result in a drop in Cable Board revenue.

Currier reviewed that the Board previous passed a resolution asking that Internet customer complaints be handled by the Cable Board similar to cable television customer complaints. Representative Shirley Johnson has introduced legislation to the effect that local franchising authorities would handle customer Internet service complaints and be able to assess rebates and liquidated damages. That legislation is pending now before the State Legislature as a result of this Board's recommendation.

Birmingham Link

DiMaria summarized problems and their resolution with respect to concerns from the City of Birmingham regarding work that has been performed by Comcast representatives. The Assistant Birmingham City Attorney has met with representatives of the Comcast engineering department to address those concerns.

Comcast representatives have discussed the underground fiber link leading to City Hall with City of Birmingham engineers to make sure that the drawings proposed are sufficient for their needs.

Monthly Subscriber Statistics

Board members are in receipt of Comcast system statistics for March.

Form 394

In March the Cable Board was asked to review FCC Form 394 relative to a proposed merger between AT&T Broadband and Comcast. Federal Law requires the consent of the franchise authority to the transfer of control of the franchise from one cable company to another. The consortium communities have 120 days in which to act upon such a request. Silence is considered an acceptance of the change of control.

The review procedure allows the Board to inquiry about the technical, legal, and financial abilities of the new company to handle the system along with additional information that the Board deems appropriate to make its evaluation and recommendation to the local franchising authorities. The individual communities would then either consent to this merger, deny the merger, or consent with conditions. Consenting with conditions has traditionally been the way that most of these transfers have been handled and one that provides the best benefit for all concerned.

The Board will have to make a recommendation to its member communities by resolution no later than its May meeting. Currier has sent a letter requesting additional information from Comcast as to the new company and certain practices that relate to whether the company is employing its technical know-how in administering the system. This request for information is related to service problems that this consortium has experienced. The Board has received a response to that inquiry indicating that the information requested is none of its business.

Currier commented that the Board has had discussions regarding service issues with DiMaria and Jon Kreucher from Comcast. Hopefully, both parties can achieve resolution to these issues before next month so that the Board can conclude both Form 394 and customer complaint issues in order to make a comprehensive recommendation to its local franchising authorities on the consent for transfer and issues regarding liquidated damages.

EXECUTIVE DIRECTOR'S REPORT

Hagaman stated that the 2002/03 budget will be reviewed and considered for adoption at next month's meeting.

MLTV15/PA18 REPORT

Helwig reported on MLTV 15 and Channel 18 meetings and programs produced during the last month. She distributed a report that analyzes the programs that BCTV produced in 2001.

A complete report on the mobile van equipment will be provided next month. BCTV is working with ProVideo on a couple of items including operation of the audio board.

Helwig reported that the Birmingham Commission chamber cameras have been repaired.

Helwig submitted a bill to the Board for the purchase and installation of equipment needed for weekend playback.

MOTION by Laidlaw, seconded by Hollinshead, to approve the payment in the amount of \$3,300.80 to Bloomfield Community Television for additional equipment for weekend playback.

Motion passed unanimously.

NEW BUSINESS

Laidlaw asked if each new board member is furnished with a copy of the Cable Ordinance and the Franchise Agreement. Hagaman responded that she has asked the City of Birmingham to provide these documents to its new Cable Board members. The Board does not attempt to retrieve this material from departing Board members.

Currier noted that two new Birmingham members are present today, Hollinshead and Wilson. It was mentioned at the Birmingham City Commission meeting Monday night that there are additional openings for three Board members from Birmingham.

BOARD COMMENTS

Pfeifer asked about the cable company's storm warning test system, which was to be run outside of prime time. DiMaria addressed her questions.

Borgon mentioned that vice-chairperson Peter Spivak did not request reappointment to the Cable Board by the City of Birmingham. His contributions to this Board will be missed. Borgon noted that Spivak is moving to Beverly Hills. Other Birmingham members who have recently resigned are Jim Lane and Ted Kokubo. Resolutions thanking them for their services will be prepared for Board consideration. There will be an election of all officers in June.

PUBLIC COMMENTS

W. A. Zimmerman of 22191 Camelot Court in Beverly Hills was present but unable to speak. His written comments were read by an audience member. He requests that the Board consider a second cable provider for citizens of Beverly Hills.

Borgon responded that no one has requested to service the consortium communities with a competitive cable franchise opportunity.

MOTION by Laidlaw, seconded by Woodard.

Resolved that the Birmingham Area Cable Board go into closed session to discuss attorney-client privileged written communication.

It was questioned whether the closed session includes only voting members. Currier stated that the Open Meetings Act allows the Board to decide which people are necessary or could be of assistance to the closed session. That would include liaison members. Pfeifer was asked to attend the closed session.

Currier clarified that there will be no action taken in closed session. The Board will come out of closed session to adjourn the meeting.

Roll Call Vote:

Motion passed unanimously.

There was a recess called at 10:04 a.m. The meeting was reconvened in closed session at 10:09 a.m.

The closed session ended and was reconvened in open session at 10:47 a.m. The meeting was adjourned at 10:48 a.m.