

Present: Bello, Camp, Correa, Hirsch, Hollinshead - Birmingham  
Borgon, Delaney, Lacroix, Woodard – Beverly Hills  
Ettenson – Bingham Farms  
Anderson – Franklin

Absent: Greenslade and Wilson - Birmingham

Also Present: Hagaman - Executive Director  
Currier – Attorney for Cable Board  
Gillis – Bloomfield Community Television representative  
Pfeifer – Beverly Hills Council liaison  
Eaton - Comcast representative

Borgon called the meeting to order at 7:47 a.m. in the Village of Beverly Hills municipal building at 18500 W. Thirteen Mile Road. Borgon welcomed Elizabeth Correa, new Cable Board member representing Birmingham.

#### **APPROVAL OF MINUTES**

Motion by Ettenson and seconded by Hollinshead that the minutes of the regular Birmingham Area Cable Board meeting held on Wednesday, December 18, 2002 be approved as submitted.

Motion passed unanimously.

#### **FINANCIAL AUDITS PRESENTATION**

Beth Bialy from Plante & Moran presented audit findings for an operating audit and franchise fee audit requested by the Board. She reviewed the audit report of the financial statements of the Birmingham Area Cable Board as of June 30, 2002. Plante & Moran gave the BACB a clean opinion, which means that the numbers were fairly stated in all material respects.

In answer to an inquiry about the GASB 34 reporting standard, Bialy stated that the Cable Board's financial statement reporting will change to a limited extent beginning July 1, 2003 as required by the Government Accounting Standards Board (GASB). The Cable Board will be considered to be a "special purpose government entity" and subject to special rules that will involve only minor modifications to its accounting procedures. There will be a limited amount of work to bring the Board's financial statement reporting to the point where it is GASB 34 compliant.

Pfeifer noted that the Cable Board attorney fees resulting from Comcast's Form 394 Application for transfer of control of the cable company will be recouped from Comcast. Currier remarked that it is expected that these attorney fees will be recouped within the next 30-60 days.

In response to a question, Hagaman stated, in prior years, the Cable Board financial statements have been reviewed as part of the Village of Beverly Hills annual audit. The Board now has a money market account and was advised to conduct a separate audit of Cable Board financial statements.

Delaney asked if the auditor has recommendations on the Board's accounting practices. Bialy responded that the Cable Board's financial records were found to be in order.

Motion by Hirsch and seconded by Anderson to accept the Plante & Moran audit report of the Birmingham Area Cable Board general purpose financial statements as of June 30, 2002.

Motion passed unanimously.

Bialy reviewed the Independent Accountant's report on Cable Franchise Fee Agreed Upon Procedures Report involving the Birmingham Area Cable Board and Bloomfield Community TV for the 18 months ended June 30, 2002. The Bloomfield Community TV communities include Bloomfield Township and the City of Bloomfield Hills.

Bialy described the franchise fee review and noted that Comcast representatives were helpful in providing necessary information. Plante & Moran recomputed the total franchise fee payments for the period under review by performing the appropriate mathematical functions on the franchise fee worksheets provided by Comcast.

As a result of findings outlined in the report, Plante & Moran provided Appendix A, which summarizes the potential revenue sources that were not included in the franchise fee calculation (nor the related remittance of franchise fees to the communities) for the period under review. Bialy described three different ways that Comcast was using to pay franchise fees and explained concerns with switching between those methodologies. She addressed particular concerns related to the last six months of 2002. Included in the report as Appendix B is a spreadsheet for each community indicating the amounts that were paid as well as the auditors' recalculation of the fees that they believe should have been paid.

According to the calculations of Plante & Moran, there were underpayments to the communities of both the 5% franchise fees and 3% PEG fees based on the company's gross revenue, which includes franchise fees. Bialy suggested that Comcast should review the report and respond and/or provide more information to the Board.

It was mentioned that the exclusion of franchise fees from the gross revenue base has been a major issue during the last several years. Currier stated that the consortium is allowed to charge a franchise fee and PEG fee based on a definition of gross revenues, which is set forth in the Cable Communications Ordinances of the four communities. He referred to a court decision referred to as the "Dallas decision" of 1997, which reversed an earlier decision and upheld the FCC requirement that operators must remit the franchise fee on total gross revenue, including the franchise fees.

The Board discussed how to proceed with obtaining accurate franchise fee payments from Comcast. It was understood that the Cable Board cannot dictate the method the cable company uses to calculate franchise fees.

Currier proposed that the Board submit a copy of the audit report to Comcast for its review and response. There could be a resolution to resolve the discrepancy at this level. The franchise agreement provides that, if there is an underpayment, the company must reimburse the Board for the audit expenses incurred. If there is no agreement, the parties could end up in litigation.

Eaton stated that Comcast has cooperated with the auditors and will continue to do so. Further conversations on the calculation methods used by Comcast will hopefully result in a satisfactory resolution of this issue.

Other topics addressed in the report were complimentary cable service; the new Telecommunications Act, which creates a telecommunications right-of-way oversight authority with related permit and operator fees, and the Federal Communications Commission Declaratory Ruling. Cable modems were defined in that ruling as a data service, not a cable service; therefore, franchise fees do not apply to this service.

Hollinshead asked that the Cable Board receive a list of those receiving complimentary cable subscriptions from Comcast. It was noted that federal law prohibits Comcast from releasing personally identifiable information on its customers. Eaton agreed to provide detail that is not personally identifiable.

Motion by Bello and seconded by Ettenson to accept the Cable Franchise Fee Agreed Upon Procedures Report for the 18 months ended June 30, 2002 prepared by Plante & Moran for the Birmingham Area Cable Board and Bloomfield Community TV.

Motion passed unanimously.

The report will be forwarded to Comcast for its review and comment and will be an agenda item for next month's meeting. Bialy offered to discuss the report with Comcast representatives in an effort to resolve the underpayment issue. Eaton remarked that he is confident that Comcast legal and auditing departments will cooperate with Plante & Moran in an attempt to resolve this as quickly as possible.

## **COMMITTEE REPORTS**

### **PEG Committee**

Hollinshead stated that the PEG committee last met on December 12, 2002 and will meet again tomorrow, January 16. He will report on tomorrow's meeting at the February Board meeting.

Hagaman and other committee members have explored additional sources for providing electronic bulletin board software that would be used on BACB channels to provide continually updated programming information and scheduling. Conversations were held with TargetVision relative to negotiating its proposal with respect to ancillary training services and software updates.

Hagaman, Anderson, and Wilson along with Leslie Helwig and Steve Rota from BCTV participated in a presentation of electronic bulletin board software offered by Tel Systems, an authorized dealer for a Scala system. The Scala system is currently being used by Birmingham

Public Schools and several surrounding communities. Hagaman hopes to have a proposal from this company tomorrow prior to the PEG Committee meeting. In addition, ProVideo has suggested that the Board look at a Key West Media Extreme system, and they submitted a proposal for this system. This will be a topic of discussion at next month's meeting.

### **Logo Update**

The new logo has been applied to the production van. Hagaman thanked the City of Birmingham Public Works Department for its assistance with this project. A stationary package is being finalized with the logo consultant.

### **EQUIPMENT PURCHASES – PLAYBACK EQUIPMENT**

Jim Gillis from BCTV provided the Board with quotes for replacement of the ¾" decks used for MLTV playback with a digital tape playback system. The proposals are for two digital playback decks along with a rackmount unit and two interface cables. The bids are as follows and do not include shipping and handling:

Roscor	\$7,249
Pro-Video	\$7,088
B & H Photo	\$7,151

Hagaman recommends that the Board approve the purchase of this equipment from low bidder Pro-Video Systems in the amount of \$7,088 plus shipping and handling, which is estimated to be \$100. Gillis concurred with this recommendation, noting that BCTV purchased eight Pro-Video units for its use a year ago and has had no failures with this playback system. He added that the look of the Board's non-meeting productions will improve substantially with this equipment. Gillis offered to install the equipment at no charge.

Motion by Ettenson and seconded by Bello to approve the purchase of digital playback equipment from Pro-Video Systems in the amount of \$7,088 plus shipping and handling.

Questions from Board members were answered by Gillis. Borgon asked Hagaman to provide the Board with an updated equipment list.

Motion passed unanimously.

### **COMCAST RELATED TOPICS**

#### **Subscriber Complaints**

Complaint #02-128i: A problem submitted by Bill Freeman of Bingham Farms relative to his Internet connection has been resolved. Eaton reported that the problem was related to a customer equipment issue. He mentioned that Comcast will soon be opening its Internet technical support center near Ann Arbor.

Complaint #02-129: A complaint from Angela Moscovitz from Birmingham involves a visit from a collector and resulting payment pick-up fee. Comcast removed the \$15 collection fee from her bill. Eaton reported that this customer had a credit of \$37.84 applied to her bill.

Complaint #03-01i: Mrs. Lee Ann Wolfield of Beverly Hills had high-speed Internet service installed and began to receive pornographic spam on her computer. Hagaman reported that Comcast sent out a technician, who helped the customer apply filters to block objectionable mail. This issue has been resolved.

Anderson commented that he is dissatisfied with the amount of spam he receives using Outlook Express with Comcast high-speed Internet service. He sends spam mail to his Hotmail internet-based account, which is successful in removing the spam from his mail. Anderson understands that people who send junk mail change their address frequently, so a computer user is wasting time by entering offending addresses to their filter. He questioned the effectiveness of the Comcast service with respect to controlling spam.

Eaton will share this comment with Comcast Internet people.

Complaint #03-02: A complaint from Kaisa Mikkola of Beverly Hills concerned Comcast billing. She was told it would take three weeks to receive an itemized bill. Hagaman stated that a Comcast customer advocate has been working on this subscriber's issue but has not been successful in contacting her to get this resolved.

Hagaman remarked that many subscribers have complained that the cable bills are confusing. She voiced a criticism with the bills indicating that 90% of the calls received on the Cable Board phone line are from subscribers who think that they are contacting Comcast. This has been brought to the attention of Comcast. The problem is that the Comcast number is on the top portion of the bill that is torn off and mailed to the company. The number to call Comcast should be more prominent on the retained portion of the bill.

Complaint #03-03: James Saylor of Birmingham complained that the channel line-up changes frequently without notice to customers. He had a slow response to his request for a new channel line-up card. A second complaint outlined Saylor's experience requesting cable installation for his mother. He asked for the most minimal service and was quoted an upgrade that cost four times as much.

Hagaman questioned the procedure followed by a CSR when someone calls and asks for the lowest cost package. Eaton responded that the CSR in question has been coached further on proper procedures.

### **Birmingham Link**

Currier reported that City of Birmingham engineers are working on engineering plans with Comcast for the completion of the underground fiber link to City Hall.

### **Monthly Subscriber Statistics**

Eaton noted that 47 customers have opted for Basic One only service in the last month.

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

Hagaman reviewed that the Board approved an amount not to exceed \$10,600 for the Plante & Moran franchise fee audit with the cost to be shared with Bloomfield Community TV. After the

audit proposal was submitted, the Board requested that a six month period be added to the audit report. Plante & Moran agreed to the revised scope based on the assumption that the change would be a simple progression of six more months of auditing.

During the course of performing the agreed upon work, the auditors found that Comcast had changed accounting procedures, which complicated the audit and required more time. Plante & Moran has submitted a bill for an additional \$4,300 over the \$10,600 proposal for the audit. Hagaman discussed the charges with Plante & Moran, and the firm agreed to reduce the amount by 50 percent. The \$2,150 additional cost will be split with BCTV.

Motion by Delaney and seconded by Ettenson to approve an additional payment of \$1,075 to Plante & Moran for the Cable Franchise Fee Agreed Upon Procedures Report for 18 months ended June 30, 2002.

Motion passed unanimously.

Board members are in receipt of the preliminary Cable Board financial statement for the 2002/2003 fiscal year. The balance sheet does not include revenues for the 2<sup>nd</sup> quarter due to the approximate 60-day delay in receipt of funds. Hagaman will provide the Board with an updated report when figures are available.

#### **MLTV15/PA18 REPORT**

Jim Gillis referred to the report prepared by Leslie Helwig on activity from December 18, 2002 to January 15, 2003. The Holiday Happenings program produced for MLTV was aired often during the holidays and is now being phased out. Gillis noted that 14 programs were produced for PA 18 with two new programs premiering the week of January 13.

Gillis explained how any manipulation of the Board's new logo is dependent on the electronic bulletin board system. The logo cannot be adjusted with the current system. He is hopeful that the new system purchased by the Board will allow complete manipulation of all logos and artwork. Gillis suggested that the selection of a bulletin board system should be based on functionality and flexibility as well as cost.

#### **BOARD COMMENTS**

Delaney commented that he would like to discuss with Carrier the confidentiality issues raised by Comcast.

Carrier related that there is a federal government privacy act stating that private customer information cannot be shared by Comcast or any other provider. When a governmental entity receives complaints, it becomes public information under the Freedom of Information Act.

Delaney asked if there is any new information on Internet regulation. Carrier responded that there are challenges occurring with respect to the FCC Declaratory Ruling regarding the ability of local units to impose franchise fees on cable modem services provided by cable providers. That dispute is not over, but it is slow going.

**PUBLIC COMMENTS**

Eaton presented positive statistics from a Comcast quarterly report on call center performance. He noted that Comcast is continuing to refine the performance of its automatic answering device to make prompts more user friendly and to manage the phone trunk circuit for maximum performance. Comcast emphasis on work order error correction has had positive results. Eaton stated that Comcast is being proactive in trying to improve its processes and procedures to make sure that customer concerns are handled properly and promptly.

Comcast is scheduled to launch Video-on-Demand in the BACB area on February 15. It is available with the Comcast digital service. Eaton remarked that this service is popular in areas where it is available and has a high level of customer satisfaction. Programs are available on a Pay-Per-View basis for \$3.95 per movie. People can watch a movie as many times as they want during the 24-hour rental period. The movie can be rewind, paused, or fast forwarded during that time period.

Eaton commented that HDTV is available in Birmingham for people who have HDTV sets.

Borgon noted that the Pay-Per-View movie coupons offered to the consortium communities as part of a settlement agreement will expire at the end of this month. He asked Eaton for information next month on how many people in the communities used these coupons.

Motion by Lacroix and seconded by Ettenson to adjourn the meeting at 9:45 a.m.

Motion passed unanimously.