

Present: Bello, Correa, Greenslade, Hirsch, Hollinshead - Birmingham  
Borgon, Delaney and Pfeifer – Beverly Hills  
Anderson – Franklin

Absent: Camp and Wilson – Birmingham  
Lacroix and Woodard – Beverly Hills  
Ettenson – Bingham Farms

Also Present: Hagaman - Executive Director  
Currier – Attorney for Cable Board  
Martinico - Director of Technology, Birmingham Schools  
Helwig – Bloomfield Community Television representative  
Eaton - Comcast representative

Borgon called the meeting to order at 7:45 a.m. in the Village of Beverly Hills municipal building at 18500 W. Thirteen Mile Road.

#### **APPROVE MINUTES OF FEBRUARY 19, 2003 CABLE BOARD MEETING**

A correction was made on page 2, paragraph 5, line 2, to change Channel 18 to read Channel 15.

Motion by Pfeifer, seconded by Anderson, that the minutes of a regular Birmingham Area Cable Board meeting held on Wednesday, February 19, 2003 be approved as amended.

Motion passed unanimously.

#### **BY 2003-2004 BUDGET**

Treasurer Delaney stated that he reviewed the draft budget with Hagaman. Board members are in receipt of copies of the proposed Birmingham Area Cable Board budget for fiscal year 2003/2004 along with a written narrative from the Executive Director summarizing the assumptions used in the development of the budget.

Hagaman directed the Board's attention to the projected year end numbers for fiscal year 2002/03. Franchise fee revenues are projected at almost 50% less than the budgeted numbers primarily due to two items. Last year's budget was based upon revenue received from Comcast's high speed Internet service. An FCC ruling determined that Internet was a data information service and not a cable service, whereupon the cable companies stopped paying franchise fees on Internet services. Secondly, Comcast found a mistake in its financial statements whereby it was including advertising revenue in its calculation for franchise fee revenue. That advertising revenue was removed from the definition of gross revenue under the new franchise renewal agreement. This resulted in the four communities receiving reduced revenues. The PEG revenues are down 35% from projected year-end numbers for the same reasons.

Hagaman reviewed projected year end expenditure figures, noting that most line items are either at or below the budget for FY 2002/03. She explained variances from the budgeted amounts. Projected year-end expenses do not exceed revenues.

Hagaman reviewed revenues and expenditures proposed for the fiscal year 2003/2004 budget. The budget includes a 5% increase in revenues for franchise fees and PEG revenues.

The Board is in the third and final year of its contract with Bloomfield Community TV to provide government and public access to the consortium. The Board will consider soliciting proposals for this service sometime this summer. A \$100,000 figure is budgeted for this expense.

Due to a substantial shortfall in revenues, the budgeted figure for any school grant requests has been reduced to \$25,000. Van maintenance has been increased to \$1,500 in anticipation of possible increased maintenance. The capital equipment line item has been reduced to \$10,000, which should cover repairs or new equipment that may be needed in terms of Board owned equipment. The programming budget has been reduced to \$15,000. There will be discussion of new programming for Channel 15 later in the meeting. Hagaman summarized Board expenses, which reflect a 3.5% salary increase for the Director. The remainder of the items are in line with the previous year.

Total revenues for the 2003/04 Cable Board budget are estimated at \$205,100.00 with expenditures totaling \$226,475.00 for a balance of (\$21,375). This shortfall will be covered by the Board's Franklin Money Market Account. The ending balance as of June 30, 2004 is anticipated to be \$432,649.79. Hagaman noted that the fund balance could be reduced significantly in the event that the production van has to be replaced. Current replacement costs are estimated at \$150,000.

Questions from Board members on the proposed budget were addressed by Hagaman and Currier. An inquiry about franchise fee agreement language regarding paying franchise fees on high-speed Internet service will be addressed by Currier in an attorney-client privileged response.

Motion by Hirsch, seconded by Delaney, that the Cable Board approves the proposed Birmingham Area Cable Board budget for fiscal year 2003/2004 and directs that it be forwarded to the member municipalities for their review and comment.

Motion passed unanimously.

#### **COMMITTEE REPORT – PEG COMMITTEE**

Hollinshead reported on developments that have occurred since the last PEG Committee meeting. The PEG Committee has been reviewing a proposal for programming for Channel 15 tentatively titled, "Birmingham in Focus". It was intended that the program include other municipalities in the service area.

The Committee took the proposal to the affected communities for review and comment. It was submitted to Birmingham Commissioner Don Carney, who chairs a communications subcommittee. His response was that it would be a difficult proposition for the city to undertake given the nature and scope of the program and requirement for involvement by city officials and departments.

Hollinshead remarked that the PEG Committee will continue to address the issue of programming content for Channel 15 beyond the scope of covering municipal meetings.

Hagaman added that she spoke with Pfeifer relative to this programming proposal for a newsy, magazine-type of show addressing what is going on in the City of Birmingham Police Department, Fire Department and municipal offices. Pfeifer was interested in a similar program for Beverly Hills and offered to follow up on this with Village administration. Hagaman remarked that the Bingham Farms/Franklin police chief Ed Glomb would be interested in reinstating his program called “Franklin-Bingham 48025”. It would make for lively up-to-date programming for channel 15. Hagaman suggested the possibility of scaling down this program idea for communities who wish to participate.

## **COMCAST RELATED TOPICS**

### **Subscriber Complaints**

Complaint #03-10: Mary Jo Cossey of Beverly Hills submitted a complaint involving a service call from Comcast. Eaton responded that the loss of service was due to a weather related outage, and the customer received service the same day. The customer was given a credit because dirt was tracked on her carpet during a service call.

Three other complaints were received regarding the scheduled rate increase announced by Comcast.

### **Birmingham Link**

Eaton stated that Comcast will proceed with construction of the underground fiber link to City Hall when directed to do so by the City of Birmingham.

### **Monthly Subscriber Statistics**

Board members are in receipt of Comcast system statistics for January and February. Martinico asked how this Comcast franchise compares to others with respect to national penetration rates. Eaton answered that Birmingham’s penetration is lower than the national average, which is 67.79%. Beverly Hills, Bingham Farms and Franklin’s penetration is above the national average.

### **Other Issues**

Board members have received copies of a letter dated February 28, 2003 from Kathleen Ebli, Area Vice President for Comcast, notifying the communities of a price increase beginning with April 2003 customer statements. The letter indicates that Comcast makes these pricing decisions in an especially competitive environment.

Borgon questioned the validity of the rationale used by Comcast that it is increasing prices because of increasing competition. This price increase follows a rate increase received last October. The explanation for that increase was that a significant cost factor in a customer’s bill is the price Comcast must pay to its programmers for the channels it carries. Comcast said that these prices are rising rapidly and continue to rise.

Borgon referred to a February 14, 2003 article from Forbes.com distributed by Comcast entitled “Comcast Squeezes Programmers” and stating that Comcast is making good on one of its

promises by pressing cable networks to lower programming fees. It goes on to say that Comcast promised programming cost savings between \$250 - \$450 million within the first three years of its merger with AT&T Broadband.

Eaton responded that programming costs have increased for Comcast by 39% over the past three years. He explained that the price increase in October was an annual increase that was originally scheduled for April but postponed to October due to controversy involving Comcast Internet problems at that time. The rate increase announced for April is the annual adjustment. Eaton added that the rate increase is driven by the cost of programming.

Borgon stated that the Cable Board has no recourse to this price increase. He noted that the Basic cable package is not increasing. Borgon is receiving phone calls from irate subscribers objecting to another price increase. He suggested that it would make sense for Comcast to offer customers a better deal than what they are paying for satellite dishes.

Bello asked Eaton to provide the Board with programming costs for each tier of service in order to determine where the programming costs are and how much they have increased.

Hollinshead referred to an article in the New York Times on Monday reviewing Comcast's position in the market and describing the company as the "cable giant". With that should come leverage in terms of the buying power that Comcast has with program content producers. There should be a benefit to Comcast, which should ultimately be returned to the people in the Birmingham area. Hollinshead understands that Comcast is in business to make a profit, but this Board must see some benefit for its constituents.

Bello also took exception to the communication from Ebli and suggested that the Board consider requesting that she attend a Cable Board meeting to discuss her letter. He referred to a March 3, 2003 Cable World article talking about "Comcast Stellar Earnings". Bello stated that BACB subscribers funded several build outs of the cable system that is now being used for 1.4 million telephone subscribers and up to 5 million Internet subscribers, from whom the consortium receives no franchise fees. He asked Currier if there is a remedy by which the consortium can recoup some of its investment that it was led to believe was solely for the purpose of regulated cable service, which is now being used for unregulated services. Currier stated that he will respond in an attorney-client privileged communication.

Currier stated that he has done work in connection with the Western Oakland County Cable Communication consortium (WOCCA) franchise negotiations in terms of gathering public information on Comcast's margins. Some of the information his firm came across at that time were reports in the financial media in 2001 indicating that the operating profit of Comcast was 40%. Currier commented on continuing increases in cable fees that have occurred and the loss of franchise fees on Internet services due to a unilateral decision by providers to withdraw it based on actions by Washington that have not been fully resolved. Municipalities have had to cut money out of their budgets due to state revenue sharing cuts. The Cable Board is holding down expenses. Considering all these factors and hearing that Comcast is announcing another price increase leads the Board to ask Currier where it can take action to get the money back. It is a

legitimate question, and he will give the Board an answer in an attorney-client privileged communication.

Eaton stated that, while operating margins are reported in the media, that money is re-invested in the business for the most part in capital improvements. He made the observation that cities are having to reduce their budgets along with the Cable Board due to circumstances beyond Comcast's control. He stated that the cable companies did not ask the FCC to make the ruling it did and that Comcast would be happy to continue to pay franchise fees on Internet services if it were legal to do so.

Currier interjected that it is legal to pay franchise fees on Internet service. The Cable Board cannot require it under the FCC preliminary ruling, but Comcast is free to pay these franchise fees if it wishes. Eaton responded that Comcast lawyers disagree with this interpretation.

In other business, Borgon referred to a letter received by the Executive Director dated March 12, 2003 from Dave Scott, President of Comcast's Midwest Division, indicating that Brian Roberts' schedule does not permit him to attend a BACB meeting on May 19<sup>th</sup> when he will be in town to address the Detroit Economic Club. Borgon clarified that the Board had indicated that it would be available to meet with Mr. Roberts at any place and at any time when he has a free hour to speak with board members. Borgon reiterated to Comcast that the Cable Board would like to talk to Mr. Roberts when he is in town on May 19<sup>th</sup>.

Hollinshead stated that he thinks it is time for this Board to send a message to Comcast corporate headquarters in Philadelphia indicating that this consortium does not endorse the recent rate increase.

Hagaman suggested that the Board draft a letter to our representatives in Washington stating its position on the rate increases. Other consortiums in the area may choose to join in this effort. She will contact the Eccentric newspaper reporter and request coverage on this issue. Hirsch offered to help frame the communication to Comcast and a related press release.

Borgon commented that he has received phone calls from subscribers asking why there is no competition in the area for cable service. He asked Currier to comment on the competition issue as it relates to the cable franchise agreement.

Currier stated that Comcast has a non-exclusive franchise with the member communities, meaning that the Board could negotiate a franchise with another provider. He noted that there are pros and cons associated with competition.

A number of years ago, this Board was approached by attorneys for Americast, a subsidiary of Ameritech. They were interested in offering a franchise for the Americast system to Birmingham and maybe Beverly Hills but not to Bingham and Franklin due to the difficulty with a build out. The Board's response to this request was that the franchise would have to include all of the consortium communities. Shortly afterwards, Ameritech announced that it would no longer seek new franchises or expansion. This eventually led to Americast being sold to Wide Open West (WOW). WOW currently operates in and around this consortium, but not in our franchise area.

The Intergovernmental Cable Communications Authority (ICCA) represents 11 communities, nine of which have Comcast and WOW providing cable service. One of the problems with Ameritech's franchise agreement was that it had a very rigid proposal with respect to competition, offering a 5% franchise fee but only 1% for PEG. Currier stated that this triggered problems with existing franchise agreements in those communities. The drawback to competition is that the existing customer base is divided between the two companies in an overbuild area, and the municipalities receive less PEG money. If people cancel cable service entirely or change to direct satellite broadcast, it produces no revenue for the Cable Board. Currier added that WOW is not interested in expanding its franchise areas at the current time.

Currier concluded that the Board would have to measure the desire for competition against what the consortium would lose in revenue. He noted that some of the cable prices in the ICCA consortium communities that have competition are very close.

Delaney asked how this consortium stands compared with other communities in terms of what subscribers are paying for cable service and what is included in the packages. Borgon officially asked Eaton for this information, which has been requested previously from Comcast.

Borgon stated that the Board requested and has not received a report from Comcast on who is receiving complimentary cable subscriptions in this consortium. The quarterly customer call report is overdue. Borgon added that the previous Comcast representative to this Board provided the Executive Director with a courtesy call when dramatic events such as a price increase were impending.

Eaton tore off personally identifiable information from a report on complimentary customer accounts and submitted it to Borgon, noting that the report does not include schools and libraries. Eaton stated that he will provide the Board with the customer log. In answer to an inquiry, Eaton said that Comcast representatives have scheduled a meeting with auditors from Plante & Moran this Friday to discuss the franchise fee audit.

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

Hagaman informed the Board that an order has been placed with Tel Systems for a new electronic bulletin board. Tel Systems will attempt to expedite the order.

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

Helwig reported that six municipal meetings and one BACB meeting were produced during the last month. Bloomfield Community TV produced one program for the Birmingham Presidents Council of Homeowners, one Birmingham Historical Society program, one Birmingham Community Coalition "Java Jam", and one League of Women Voters panel discussion about big foot houses.

Thirty-one programs were produced for P.A. 18 including three "Metro Books and Art" programs by Beverly Hills producer Mary Ann Verdi-Hus. Other programs of special interest include the Birmingham Bloomfield Chamber of Commerce "Business Forecast" and the Community House's "Sharing and Caring Cancer Symposium". BCTV is purchasing one Avid

laptop editing station. This laptop will enable the staff to expedite editing projects and increase scheduling flexibility.

Helwig distributed copies of a BCTV Program Analysis for 2002 indicating the total number of programs produced by BCTV, excluding municipal meetings. The total number of programs increased this year from 463 to 481. Of those, 9% of the programming was for MLTV Channel 15. This report can be discussed at the next meeting after Board members have an opportunity to review the material.

### **PUBLIC COMMENTS**

Eaton outlined the contents of an envelope distributed to Board members before the meeting. He announced that the Comcast Customer Survey Website is now up and running market-wide. Customers will be invited to visit this site after they have had an interaction with Comcast whether it is a service call or a telephone call in order to provide feedback to the cable company.

Board members received copies of a newsletter for municipalities that will be generated regularly. It contains new product information and material about Comcast. Board members have been provided with an envelope and response card if they wish to comment on the newsletter.

At last month's meeting, Eaton spoke about a new program initiated at the Customer Service Center whereby a customer who asks to speak with a supervisor is immediately connected to a supervisor. This program operates 18 hours a day and has been a great success. Eaton mentioned that Comcast Internet customers are now benefiting from an upgrade in upload speeds.

Comcast is experimenting in its Warren Technical Operations Center with a new quota management system, which he explained to the Board. The system appears to be working well and has reduced the number of missed service calls and allowed technicians to respond more expeditiously.

Currier stated that he will be attending a meeting of the ICCA consortium this afternoon and will relay the concerns and comments of this Board to that body.

Motion by Delaney, seconded by Hirsch, to adjourn the meeting at 9:05 p.m.

Motion passed unanimously.