

Present: Camp, Hirsch, Hollinshead, Kuhne, Wilson - Birmingham
Borgon, Delaney, Pinkos, Woodard – Beverly Hills
Anderson – Franklin
Ettenson – Bingham Farms

Absent: Correa and Greenslade – Birmingham

Also Present: Hagaman - Executive Director
Salhaney and Currier – Attorneys for Cable Board
Helwig – Bloomfield Community Television representative
Beller and Parker - Comcast representatives

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 SEPTEMBER 17, 2003 CABLE BOARD MEETING

Borgon commented that he was informed by Currier that a meeting can be adjourned without a motion. He suggested that the motion to adjourn on page 6 be changed to read, “The meeting was adjourned at 8:53 a.m.”

Motion by Delaney, seconded by Ettenson, that the minutes of a regular Birmingham Area Cable Board meeting held on September 17, 2003 be approved as amended.

Motion carried.

ACCESS SERVICE PROVIDER

Hollinshead reviewed that the PEG (Public, Education and Government) Access Committee of the Cable Board advertised a Request for Proposals in July 2003 for cable access management for a period from January 1, 2004 through December 31, 2006. By the submission deadline of August 18, proposals were received from two prospective suppliers: Create-Tech of Grosse Pointe and the incumbent supplier Bloomfield Community Television of Bloomfield Hills.

The PEG Committee heard presentations from both suppliers, interviewed their representatives, and discussed the proposals. The Committee met again to discuss the qualifications of the suppliers and to seek clarification on legal questions from Board counsel. Following this discussion, the PEG Committee voted on the selection of supplier.

The PEG committee voted two to one to recommend to the full board that BCTV be retained as the public and governmental television access supplier to Birmingham, Franklin, Beverly Hills and Bingham Farms for MLTV Channel 15 and Channel 18. Hollinshead stated that the majority of PEG Committee members recognized several major qualifications of Bloomfield Community Television.

- BCTV was the low bidder with a \$100,000 annual fee for the three-year period.
- Since being awarded the BACB contract in 2000, BCTV has produced over 1000 different programs for the three channels it serves including over 100 programs for MLTV Channel 15 (not including coverage of municipal meetings).

- BCTV has a state-of-the-art studio and production facility located adjacent to the municipalities represented by the BACB.
- BCTV has six well-qualified full-time employees and an established core group of volunteers available to work on Channel 15 and 18 programming when required by the BACB.
- BCTV has consulted on the updating of the BACB van, the upgrade of the Beverly Hills Council chambers, audio improvements for the Franklin Council room, and the selection of an updated on-air bulletin board system.
- Training programs are periodically held for BCTV employees and volunteers.
- The diverse programming produced by BCTV for the community-based Bloomfield Channel 15 provides a relevant program list for BACB's Channel 18.

Hollinshead remarked that this recommendation is not made without acknowledgment of areas for improvement in the relationship between the Birmingham Area Cable Board and Bloomfield Community Television. Also, the recommendation is in no way intended to discount the important role and major contributions of Create-Tech in leading the communities into the public access cable television era prior to 2000.

Motion by Hollinshead, seconded by Kuhne, that the Birmingham Area Cable Board designates Bloomfield Community Television as the cable access management provider for the next three years as stated in the Request for Proposals and in the Board's processes and procedures.

At Delaney's inquiry, it was clarified that Create-Tech quoted \$120,000 per year while BCTV quoted a \$100,000 annual fee. Delaney commended the PEG committee for its work on this contract and thanked Wilson for his minority report. As Treasurer of the Cable Board, Delaney is not sure that the Board is in a position to spend an additional \$60,000 on the Create-Tech contract during the three year contract period.

Wilson referred to his written minority opinion, which was distributed to the Board. He expressed the view that residents of the four communities are not getting their money's worth with the BCTV contract. He cited a small percentage of programs produced for MLAC-15 and noted that Channel 18 is Bloomfield Township's Channel 15. He questioned what the Board is receiving for its \$90,000 contract with BCTV. Wilson thinks that the communities would receive better programming if the Board contracted with Create-Tech, a supplier that would be serving only this consortium with a staff of two full-time employees working on Channel 15 programs.

Wilson has questioned whether it is legal for Bloomfield Community Television to submit a proposal and prevail over private enterprise. The Board is in receipt of a written legal opinion from Attorney Tim Currier regarding the issue raised by Wilson relative to a public entity and a private entity competing to be a PEG service provider.

Currier presented a brief analysis of the issue. He thinks Wilson raised a good point relative to the authority of what governmental entities can and cannot do. The Board has only those powers

that are expressly given to it by the government, i.e. through the State Legislature or local municipalities and those powers implied to carry out those duties.

Currier referred to areas where there has been a broadening of governmental work into the private sector. Contracting for rubbish collection is an example of privatizing. Some communities own their utility systems and have their own cable systems that are operated by the municipality. There are many areas where municipalities are allowed to privatize or have contracts with other entities whether is it Create Tech, BCTV or others. Many cable consortiums are contracting with their school systems to provide cable access management. There is authority to do this.

Currier addressed an issue concerning the new Birmingham Ethics Ordinance for the benefit of Birmingham Board members. There should be disclosure if there is any financial connection whereby a Board member is receiving money from any of the bidders. The member is not permitted to vote on this particular issue if there is a financial connection.

Currier related that Birmingham and Beverly Hills have relationships and contracts with Bloomfield Township in terms of sewer programs, road improvements, and through the SOCRRRA and SOCWA organizations. Beverly Hills, Birmingham and Bloomfield Township have intergovernmental cooperation agreements with respect to police and fire. Agreements that exist between these entities are not arrangements in which Board members have a financial interest.

Kuhne provided background with regard to the Cable Board's introduction and involvement in public access for this franchise and events that led to awarding a contract to BCTV to provide public access programming. Kuhne stated that it is not BCTV's responsibility to produce public access shows. Anyone in the four communities can receive training and use their facility. He believes that BCTV has gone beyond the contract responsibilities in terms of community and governmental coverage. Kuhne added that BCTV is the low bidder.

Bob Colgan from Create Tech addressed the Board. He mentioned the fact that Create-Tech was the consultant for installation of the video system in the Birmingham Commission meeting room. Colgan talked about Create-Tech's five and one-half years as a cable access provider to BACB. He commented on the required hours of original programming during that time pointing out that, in his opinion, BCTV falls below that requirement.

Hollinshead commented that the PEG Committee and Cable Board have wrestled with the issue of original programming and is continuing to work on this in close partnership with BCTV to achieve their objectives. The Cable Board and PEG Committee will be taking the lead in encouraging and promoting municipal programming in each of the communities. It was not part of the formal bidding process to require the supplier to be the sole creator of original programming for the municipal channel. It is viewed as a cooperative effort.

Pfeifer recommends that the Board continue its contract with BCTV. She commented that Beverly Hills is bound by its Charter to accept the low bidder unless there is compelling reason not to do so. She recalled that BCTV was instrumental in setting up the Beverly Hills council

chambers with equipment to receive live cable broadcasts. Pfeifer considers BCTV as the facilitator and provider of public access service for the communities with the Cable Board being the liaison working with the provider and the municipalities. Because Comcast provides cable television to approximately 75% of our residents, public access programming is a wonderful opportunity for communities to reach residents.

Ettenson did not believe that there was a compelling reason to accept the bid of Create Tech in lieu of accepting the low bid, especially in light of declining revenues.

Leslie Helwig, General Manager of Bloomfield Community Television, disagreed with Mr. Colgan's comments. She stands by the record and by the proposal submitted by BCTV. Bloomfield Community Television's services include hundreds of programs over the past few years, almost all of which are locally produced. There have been more than 40 non-meeting programs on MLTV-15 this past year.

Helwig related that some of the programs aired in previous years that are no longer produced were spearheaded by Birmingham and Franklin individuals in response to a direct interest from the community in doing those particular shows. BCTV has been working to build a relationship in which there would be more community participation and would welcome more interest and input from the communities. BCTV has an excellent facility and six full-time staff members who are eager to assist with municipal programming.

Roll Call Vote on motion:

Kuhne	- yes
Camp	- yes
Hirsch	- yes
Hollinshead	- yes
Wilson	- no
Borgon	- abstain
Delaney	- yes
Pinkos	- yes
Woodard	- yes
Anderson	- abstain
Ettenson	- yes

Motion carried (8 yes – 1 no – 2 abstentions).

Borgon commented on the significance of Channel 15 and the need for additional community programming. PEG committee chairperson Hollinshead responded that he accepts the charge to realize the promise of Channel 15.

COMMITTEE REPORT

Cable Review and Liaison Committee

Hirsch stated that there are Comcast issues to be followed up from the September meeting as well as additional points of discussion.

Progress update on franchise fee audit – Michael Parker from Comcast reported that he spoke with Board attorney Tim Currier last week to set up a meeting in the next week to two weeks to resolve the outstanding franchise fee audit issues.

Hear Comcast's plan to set up a meeting with BACB officers – Comcast representative Louise Beller suggested proposed dates and times for the Cable Board members to tour the call center in Plymouth. Hagaman asked Board members to contact her with their preferences in order to arrange this tour.

Parker will set up a meeting between Comcast officials and BACB officers as soon as Comcast leadership completes its budget preparation. He is attempting to schedule the meeting to be concurrent with the tour of the call center.

Review revised copy and layout of the Comcast phone number on customer statements - Beller has provided the Board with copies of the revised layout of the Comcast phone number on customer statements. The revisions will take place in the next round of billings if the Board agrees with the changes. The Board concurred.

Update on Comcast adding Internet subscribers to monthly report – Beller stated that this data has been included on this month's system statistics report.

Get further clarification on credit to subscribers denied cable and/or phone service by Comcast during the August power outage – Parker stated he faxed Currier a copy of the installation order that all customers receive when setting up their service. The work order specifically states that credits will not be issued for power related outages.

The Cable Review Committee added additional items to be brought up this month.

- Committee member Ettenson drafted a letter to Ralph Roberts, Comcast CEO and senior citizen, seeking his support on reduced rates to the consortium's senior citizen constituents.
- “Programming Cost Mitigation” – This topic was based on a *Wall Street Journal* article dated 9/24/03 (“Comcast Scores Clear Victory in Starz Settlement”) estimating that Comcast will save millions of dollars by pressuring programmers to reduce charges. Since Comcast has justified every recent rate increase by citing higher programming costs, shouldn't its rates be reduced when programming costs are substantially lowered?

Parker responded that articles that comment on savings in programming do not address the fact that there are increases in other areas. Saving money on programming means that Comcast is mitigating contract increases on a going forward basis. The assumption that Comcast should reduce rates based on savings in programming costs does not tie to the economics of the contract. Ettenson recalled that it is a goal of Comcast to limit its rate increases to once a year. He asked if the mitigation of programming costs will mean that rates do not have to be increased every year. Parker stated that he will get back to the Board on that issue.

- The review of rate increases that Comcast presented at the September BACB meeting raised some questions among committee members and others. That prompted the Committee to review the figures more closely, particularly the percentages of increase, and prepare a document called “Review of Rate Increase Report Submitted by Comcast” with an attached table showing a comparison of cable rate increases. Comcast was asked to respond to this at the next meeting.
- The committee also talked about several previously discussed subjects, including contacting state and federal officials about cable rates. The committee also discussed the possibility of seeking government regulation of cable rates and of allowing Boards such as ours to benefit from Internet-usage fees. We also concluded that it would be useful to establish closer communications with counterpart boards in Michigan through NATOA concerning common goals.

COMCAST RELATED TOPICS

Subscriber Complaints

Hagaman reported that all customer complaints received in the last month have been resolved. She thanked Louise Heller and Comcast staff for the quick resolution of issues. Hagaman noted that one of the seven complaints was related to Internet service, which was escalated to another Comcast department. Comcast has left messages with the individual. The subscriber has not returned any of the calls.

Birmingham Link

Heller announced that the aerial construction portion of the Birmingham link will be completed tomorrow. The splicing is scheduled to be finished by Friday, which will conclude the project. All certification and documentation will be available on October 22. Comcast will be able to start working on the feed to Bloomfield Community Television sometime after October 20.

Monthly Subscriber Statistics

There were no comments on the system statistics for September 2003.

Other Issues

Comcast has provided Board members with an organizational chart of Comcast administration.

Beller commented that the “Comcast Cares Day” took place on October 4 at which time 17 Comcast employees worked with a local Angel’s Place, an organization that provides homes and services for persons with developmental disabilities.

Beller provided Board members with information on two new product upgrades – the 3 Mbps Internet upgrade and the new ON DEMAND product. Both of these enhancements have been made at no additional cost to the high speed Internet subscribers or to the digital cable subscribers.

Beller extended an invitation to Board members to attend the Comcast Film Festival V.I.P. reception this Friday, October 17 at the Fox Theatre at 5:30 p.m.

EXECUTIVE DIRECTOR'S REPORT

Hagaman reported that Plante & Moran is near completion of the Cable Board operating audit. There was a consensus to schedule a presentation of the audit report at the November meeting.

The Board is in receipt of Hagaman's comprehensive report on the September 10-13 NATOA conference. Hagaman highlighted items of particular interest including: 1) continuing litigation between cable providers and cities; 2) presentation by FCC Commissioner Michael Copps about the deployment of telecommunication services and opposition to media consolidation; 3) community programming; 4) web-streaming; 5) election coverage.

Board member Correa's report on the NATOA Conference will be addressed at the next meeting at which she is present. Borgon suggested that Hagaman and Correa share relevant information picked up at the recent conference with the PEG Committee.

MLTV15/PA18 REPORT

Helwig reported on the production of municipal meetings in the last month plus a program for the Birmingham Historical Society. She stated that there are three "candidates' forums" scheduled in October for Birmingham Commission seats. Two of these will be shown on PA 18 since they are not sponsored by municipalities or municipal agencies; the third will be shown on MLTV 15 because it is co-sponsored by the Birmingham Area Seniors Coordinating Council (BASCC) and the League of Women Voters.

The Birmingham City Commission has given BCTV its schedule for regular Commission meetings. Seven additional meetings will be taped. They are joint work sessions with various city boards and the city Commission.

BCTV has been working with Arne Anderson and Hubbell, Roth & Clark, consulting engineers, on the Rouge River program series. Tonia has taped many events, locations and activities that may be used in the series.

BCTV produced 33 programs during the month for PA 18. *Everyday People*, produced by Birmingham resident Gerry Doelle, premiered and received good publicity. Jim Lane's *Talk of the Town* continues regularly. Of special interest this month was the program at the Birmingham Bloomfield Arts Center at which the Birmingham Bloomfield Cultural Council presented its annual award and lifetime achievement award. Helwig highlighted three new programs being developed on topics featuring women's issues, basic financial principals, and a cooking program.

The Oakland County Adult Treatment Court is producing a one-time program showing the benefits of "drug court" under the direction of Circuit Court Judge Joan Young with input from MADD.

Helwig commented on the large turnout of 17 people at the September 22 workshop at BCTV. Several of the attendees have already done camera work at the studio. Concerns on the audio on MLTV's bulletin board have been addressed in a separate report distributed to the Board.

In response to an inquiry, Hollinshead presented his viewpoint on airing the three different candidate forums on channels indicated in Helwig's report. He thinks that the correct decision was made by BCTV for airing these programs.

OLD BUSINESS

Delaney questioned the status of the franchise fee audit. Parker responded that he and Attorney Tim Currier are planning to meet next week or the following week to work out some disposition of the franchise fee issues. Delaney requested to be kept informed relative to resolution of the franchise fee audit.

Hirsch stated that Channel 25, the College Channel, continues to show Dearborn area programming. Other Board members observed that the programming changed back to the College Channel. There will be further investigation on the status of Channel 25 programming.

Helwig commented that it appears that Comcast will have the Birmingham link to City Hall complete in time for the next Birmingham City Commission meeting on October 28. However, the Birmingham Commission has asked that BCTV tape that particular meeting offsite from the BASCC headquarters, which will delay the first live broadcast of a Commission meeting.

Hollinshead commended Arne Anderson and Leslie Helwig and the staff at BCTV for the work they have put into the Rouge series, which he thinks could be a groundbreaking piece when it comes to public access television.

NEW BUSINESS

Hirsch read an excerpt from the *Wall Street Journal* indicating that people who want to receive a premium channel such as HBO without purchasing an expensive tier may be able to cut their cable tab in half. A little known federal law requires cable companies to sell premium channels such as HBO, Showtime, and Cinemax even if subscribers do not subscribe to a pricey plan. The rules took effect nationwide last fall, but cable companies rarely advertise the new option to consumers. Hirsch asked if subscribers can take advantage of this.

Parker responded that Comcast complies with the FCC's buy-through provision. This provision allows a customer to purchase Pay Per View or premium programming on a per-channel basis with their basic cable. Subscribers can call 1-800-COMCAST and ask to receive a specific channel.

BOARD COMMENTS

None

PUBLIC COMMENTS

Ed Missavage of 30001 Lahser Road in Beverly Hills commented that he came before the Board 13 months ago and stated that Birmingham area seniors were not receiving the senior discounts from Comcast that were available in other municipalities such as Sterling Heights and Warren. He has not seen a reduction on his bills.

Borgon stated that Comcast has informed this Board that it does have a senior rate in some areas of the country. This is not a new offer but an existing rate in areas where Comcast took over an existing system. The Board has been bringing up the topic of senior rates with Comcast every month. At today's meeting, the Board authorized the chairperson to sign a letter to Comcast CEO Ralph Roberts stating that this Board wants Comcast to do something for its senior citizens.

Bunker Kelly on Corsaut in Beverly Hills presented a comprehensive account of difficulties he has experienced with Comcast telephone, cable and Internet service and products as well as feedback received from other area residents. Everyone he spoke to has experienced some degree of problems with Comcast service. As homeowner president in his area, he has received comments from people who object to recent changes in the In Demand channel. It appears that Comcast is trying to compel people to switch to digital cable service. Kelly also commented on Comcast pricing for cable service.

Borgon indicated that the Board's regulatory authority does not extend beyond cable television although this Board does forward Internet complaints to Comcast. He would like to see Mr. Kelly's complaint in writing so that it can be addressed by Comcast and followed up by the Board. Borgon commented that this Board is concerned about residents' issues with Comcast, and he thanked Kelly for attending the meeting.

Borgon referred to a public comment made at the last meeting by a subscriber who relayed that his call to Comcast was answered by a service representative in Texas. Borgon would like this addressed by Comcast at the next meeting.

The meeting was adjourned at 9:50 a.m.