

Present: Correa, Fredrick, Hirsch, Hollinshead - Birmingham  
Borgon, Pfeifer, Woodard – Beverly Hills  
Ettenson – Bingham Farms  
Gallasch – Franklin

Absent: Frishman – Birmingham  
Delaney – Beverly Hills

Also Present: Hagaman - Executive Director  
Currier - Attorney for Cable Board  
Gillis – Bloomfield Community Television representative  
Martinico - Director of Technology, Birmingham Schools  
Valentine – Birmingham Staff Liaison  
Beller - 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. Borgon welcomed Ron Fredrick, newly appointed representative from Birmingham.

#### **CLOSED SESSION**

Motion by Woodard, second by Ettenson, to go into closed session to discuss confidential attorney/client privileged communication exempt from disclosure.

Roll Call Vote:  
Motion passed unanimously.

Members of the Board, Hagaman, and Valentine met in closed session with Attorney Tim Currier at 7:48 a.m. and reconvened in open session at 8:08 a.m.

#### **APPROVE MINUTES**

Motion by Woodard, second by Ettenson, that the minutes of a regular Cable Board meeting held on September 22, 2004 be approved as submitted.

Motion passed.

#### **FRANCHISE FEE REVIEW UPDATE**

Attorney Tim Currier reviewed that the Cable Board has been discussing the franchise fee audit that was conducted for the period of January 1, 2001 to June 30, 2002. Auditors Plante & Moran discovered that Comcast had not been paying the franchise fees and PEG fees correctly. The Board entered into discussions regarding the resolution of payment of franchise fees with Comcast, in particular with Mr. John Gibbs who is VP of Government and Regulatory Affairs for the Midwest Division. Currier reported that the Cable Board and Comcast have reached a resolution on those issues, which is embodied in a letter dated October 18, 2004 from Comcast.

As a brief analysis of this resolution, Currier explained that rates being charged to customers and the number of subscribers have been fairly constant over the period of time in question. The period from July 1, 2002 through June 30, 2004 was used to extrapolate the approximate monthly underpayment from Comcast so that the consortium can resolve the matter to this point. Comcast has agreed to pay the Birmingham Area Cable Board \$52,500 within 30 days of signed receipt of the letter of agreement.

Comcast will be able to recoup \$50,000 of this payment from subscribers over a period of 24 months as is their right under federal law. This will amount to pennies a month depending on the size of the customer's bill. A percentage of the money will be going back to the general funds of Birmingham, Beverly Hills, Bingham Farms, and Franklin for that portion attributed to franchise fees with a smaller amount returned to the Cable Board as PEG fees.

Comcast has also agreed to a revised calculation of how franchise and PEG fees are to be calculated in accordance with the Dallas Case. Comcast will revise its methodology to assure that the payments are correct on a going forward basis from July 1, 2004.

Comcast will not be announcing the conditions of this resolution in subscriber bills. Currier stated that it is appropriate for the Cable Board to issue a press release or statement as is appropriate regarding the matter that has been concluded.

For the understanding of the customer, a franchise fee is a fee that Comcast is required to pay the communities according to both local franchise agreements and federal law. The BACB is required by the franchise agreement and charged by the Intergovernmental Agreement with its member communities to administer that franchise agreement and to conduct audits periodically. The Board authorized auditors Plante & Moran to conduct such an audit. A shortfall was discovered, which resulted in negotiations with Comcast. Comcast has agreed to a settlement whereby it would compensate the Cable Board \$52,500 to repay calculated franchise fees to pay the cost of the franchise fee audit as well as a portion of underpayment penalties and late fees.

Currier stated that John Gibbs has been cooperative and forthcoming in the discussions. This matter is now concluded, and the Board will go forward with its partnership with Comcast. Currier recommends acceptance of the letter.

Motion by Hirsch, second by Ettenson, that the Birmingham Area Cable Board approve the settlement with Comcast and authorize Chairperson Borgon to sign the letter of agreement dated October 18, 2004 between the Board and Comcast regarding Determination of Franchise/PEG fees.

Motion passed unanimously.

## **COMMITTEE REPORTS**

### **PEG Committee**

Hollinshead stated that the PEG committee is continuing its efforts on the production of the next Rouge River program. It is working with the City of Birmingham to update its facilities for coverage of city meetings. Hollinshead welcomed Joe Valentine, who will be staff liaison to the Board from Birmingham. The active involvement of Birmingham in Board matters and PEG programming is appreciated.

Borgon observed that the billboard on Channel 15 features primarily Birmingham community information. He encouraged the other member communities to communicate pertinent information about their municipalities to Bloomfield Community Television to be added to the billboard.

### **Cable Action Committee**

Hirsch reviewed several issues from the last meeting. There was a complaint regarding a delay in setting up a service appointment on a weekend when Comcast apparently routes its calls to its Plymouth service center. Beller was asked to look into this and advise the Board.

Beller clarified that Comcast has two 24-hour facilities in Michigan, one in Ann Arbor and the other in Plymouth. The Macomb service center is open seven days a week from 7 a.m. to 1 a.m. Monday through Friday and until 9 p.m. on the weekend. When the Macomb Center is closed, calls are rerouted to assure that they are answered quickly and appropriately. Beller looked into the complaint and found that the subscriber received the scheduled appointment within 24 hours of his call. She has discussed the matter with the area director of the call center and the person who handled the complaint.

Hagaman stated that the concern was that a Comcast service representative was not able to schedule a service call within the required 24 hours. The call center was not able to access the system due to overflows to provide an appointment in 24 hours. The representative explained that Comcast would call the customer the next morning and schedule an appointment within 24 hours of their phone call. Hagaman is concerned with people calling and being given an appointment outside of the 24-hour time period.

Beller responded that the only time the appointment quota would be full is if there was a significant outage that would keep Comcast from booking a service call. She has checked into the 24 hour scheduling window and found that Comcast is meeting all of its requirements.

Beller clarified that the Cinemax Channel is not being moved from the analog to the digital tier.

As an update to the new TV guide channel format, Beller reported that some residents may see this format change today or tomorrow. The transition has begun and a change in the TV guide channel format will be implemented within the next week or two. The new format will be more user friendly.

Hirsch stated that the Cable Action Committee proposes that the Board contribute to NATOA's lobbying fund in an amount up to \$500 annually. NATOA is the national organization representing cable boards across the country. The committee believes that this is a sound investment toward making the interests of cable subscribers in the four communities known in Washington with respect to matters particularly relating to rate increases.

Woodard left the meeting at 8:30 a.m.

Motion by Hirsch, second by Ettenson, that the Birmingham Area Cable Board contribute to the NATOA Lobbying Fund in an amount up to \$500 annually.

Board members commented in support of this action. Attorney Currier indicated that there was no problem with the Board making such a contribution.

Motion passed unanimously.

At its last meeting, the Cable Action Committee discussed a recent interview of Comcast CEO Brian Roberts appearing in the Wall Street Journal on Friday September 24. The answer that Mr. Roberts provided to a question on rates caught the attention of committee members.

The questions was, "What do you say to consumers who keep seeing their rates go up more than the rate of inflation?" Roberts answered, "that's a question you have to modify to say cable and satellite... The reality is that, hopefully, the consumer proposition is more valuable in terms of the combination of more channels, more programming and newer technology... I think you have to look at what you get for what it costs, and at roughly \$40 or \$45 a month, it is a fabulous bargain. If two people go to the movies just one night for two hours, they're going to spend that much. We're offering 45-50,000 hours of choices."

Hirsch stated that some of the committee members felt that the response was unclear as to warrant a statement from this Board. Others felt differently. It was decided to present the issue to the Board for its consideration.

Correa did not see anything wrong with Robert's answer that cable rates are a value proposition. Each person who subscribes to cable makes a decision on whether it is worth the money for what they receive. If people do not think they are getting value for cable television, they can discontinue the service. Correa thinks that each Comcast customer who pays franchise fees and PEG fees gets value for them because money comes back to the community.

Correa commented on the technology that is developing within the cable industry and compared it with computer technology that has resulted in the cost of computers coming down. She thinks that the same thing will happen with cable eventually. There is a lot of time spent talking about cable price increases and not enough time talking about how to

work or partner with Comcast to make the franchise fees and PEG fees valuable for the member communities.

Ettenson agreed that there is a value issue, but maintains that Brian Roberts did not answer the question about the rate of inflation in the interview. Using the analogy of computer prices, the price of cable did not go down. Ettenson reminded the Board and subscribers that the mission of the Cable Action Committee is to follow up on issues that are raised.

Correa responded that laptop computers would still be \$5,000 if there were government price controls placed on them. She anticipates that there will be more competition and that prices will come down when wireless cable is available. Cable is an emerging technology and prices increase when companies are doing research to improve a product.

Hollinshead remarked that cable television has been around since the 1950s. While the costs of other items such as computers and home entertainment systems declined, the monthly bill for cable service in 1990 of about \$12 is now \$35-\$40. He believes that Board members would subscribe to advanced technology and the delivery of more entertainment options through cable. However, the question remains what are the subscribers getting back for these fees. Hollinshead thinks that this Board needs to be a citizens' advocate.

Correa left the meeting at 8:39 a.m.

Hirsch expressed the view that cable providers should be regulated in some way. He asked the sense of the Board in terms of preparing a statement to Mr. Roberts expressing its concerns on behalf of the constituents.

There was agreement to forward a statement of the Board's position on this issue to NATOA and urge them to carry it further through their lobbying efforts in Washington. Hagaman stated that NATOA has an active Board of Directors that meets regularly.

Borgon asked the Cable Action Committee to work on a press release for the franchise fee resolution. Currier will prepare a draft statement.

## **COMCAST RELATED TOPICS**

### **Subscriber Complaints**

There were no complaints this month. Hagaman asked that subscribers who call the cable office with a message leave a number where they can be reached during the day. This would assist her with returning calls and resolving matters promptly.

There appears to be resolution of a complaint from a subscriber who was offended by a Comcast advertisement. That commercial was removed from this broadcasting network. Hagaman asked Beller if the offensive commercial could resurface in the future.

Beller responded that the ad is not in the mix to run again, but she does not know the advertising schedule. Hollinshead stated that he saw the commercial in question last Friday, October 15. Beller is trying to obtain a copy of the advertisement so that Board members can view it.

### **Monthly Subscriber Statistics**

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

### **Other Issues**

Beller highlighted several items that may be of interest to the Board and subscribers. Comcast has launched its NFL Network partnership On Demand. Comcast has introduced Video Mail, a new feature available to all Comcast High-Speed Internet customers. Beller commented that Comcast employees worked with the Birmingham Area Seniors Coordinating Council facility on October 2 to paint the facility and provide general clean up. Comcast has just announced that it will be working with the Birmingham Bloomfield Symphony Orchestra to support its 2005 programs.

Members of the Board will attend a tour of Comcast's head end facility in Taylor on Monday, October 25 at 9:00 a.m.

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

Board members are in receipt of the Cable Board financial statements for a period ending June 30, 2004.

Hagaman provided Board members with a summary report of the September 15-19, 2004 NATOA Conference that she attended with Susan Frishman. A major topic of many sessions was the impact of convergence on regulation and the role of local government. Cable companies, telephone companies, and IP providers are now bundling services to combine data, video and telephone services.

The conference introduced many programs and promotions for local access channels. Hagaman suggested that members view some of the tapes she brought back at an upcoming PEG meeting.

Another issue featured at the conference was web streaming. The technology continues to improve, and costs have come down. However, municipalities are becoming more constrained in terms resources and personnel. Hagaman is not sure that any of the member communities have in-house staff to help launch web streaming of municipal meetings. She would like to see this consortium embark on a trial web streaming program to see how it works, what is involved, and the cost.

The possibility of engaging an outside resource to provide a web streaming service for the consortium communities was discussed. Hagaman is aware of a large company in California that does web streaming. The Board authorized Hagaman to contact a representative from the company and invite them to make a presentation to the Cable Board.

Hagaman stated that she learned of a program at the conference called “Small Business School” that could be carried on Channel 15. The series keys on people who have succeeded in starting up small businesses. The PEG committee will look at this and other promos.

Ettenson commented that he volunteers for an organization called SCORE, which is part of the Small Business Administration. The local chapter of that organization may be able to assist with the “Small Business School” programming.

### **MLTV15/PA18 REPORT**

Gillis reported that the summer concert season wrapped up after the Birmingham concert during the Ryder Cup event on September 15. He has met with Joe Valentine on the storage of the van and upgrade of the Birmingham cable television system.

The BCTV studio has been active during this report period. They are continuing to shoot and gather “b-roll” footage for the Rouge River program.

Gillis has been in contact with ProVideo Systems regarding the MLTV truck equipment upgrade. It is anticipated that the installation will be done the first week of November.

At the last BACB meeting, Gillis was asked to report on the life expectancy of the mobile van. Gillis met with Jim Finkley from Bloomfield Township fleet maintenance, who estimates that the truck will easily last another 10 years with the light use that it receives. It has only 10,665 miles on it. The van is on a service schedule of bi-yearly inspection of hoses, brakes, tires, fluids, and suspension. Finkley also indicated that the vehicles undercarriage looks good and solid even after spending years outside.

Valentine reported that he has been in contact with Jim Gillis and Peter Hollinshead with respect to the upgrade to the Birmingham City Commission room broadcasting. We have been researching the equipment used in the Village of Beverly Hills and the City of Sterling Heights, both relatively new systems. There is a need to look at the broadcasting equipment from the video aspect and the audio aspect as well as addressing the lighting in the City Commission room to improve picture quality. A recommended proposal will be coming before the Board for consideration.

Valentine commented on winter storage of the mobile van. The truck cannot be accommodated in the Birmingham Department of Public Service facility without displacing an existing piece of equipment. There is a garage available at the Historical Museum provided that the truck will fit. This would be a short term solution for this year due to plans to renovate that building and eliminate the garage.

### **OLD BUSINESS**

None

**NEW BUSINESS**

At the request of members of the Board, Hagaman will schedule discussion of a change to evening Cable Board meetings as an agenda item for next month's meeting.

**BOARD COMMENTS**

Pfeifer attended the BASCC Board meeting yesterday and reported that BASCC is grateful for the work done by Comcast representatives on Saturday, October 2 at which time employees and families repainted rooms in the senior center.

Borgon related that Grant Pinkos has submitted his resignation from the Cable Board due to a change of employment and increased business responsibilities. Pinkos contributed his knowledge and expertise to this Board, and he will be missed. Borgon hopes that a replacement from Beverly Hills is appointed soon.

Borgon thanked the City of Birmingham for providing a liaison person to work with the Cable Board.

The meeting was adjourned at 9:12 a.m.