

Present: Decker, Fredrick, Hirsch, Jones, Tarini - Birmingham  
Borgon, Pfeifer, Verdi-Hus and Woodard – Beverly Hills  
Ettenson – Bingham Farms  
Gallasch - Franklin

Absent: Correa, Frishman – Birmingham

Also Present: Hanson, Executive Director  
Currier, Attorney for Cable Board  
Martinico, Director of Technology, Birmingham Schools  
Helwig, Bloomfield Community Television representative  
Valentine, Birmingham Staff Liaison  
Beller, 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 MEETING MINUTES**

Motion by Ettenson, second by Pfeifer, that the minutes of a Birmingham Area Cable Board meeting held on Wednesday, June 15, 2005 be approved as amended.

Motion passed unanimously.

#### **ELECTION OF OFFICERS**

The bylaws of the Birmingham Area Cable Board require that Board officers be elected annually at the first meeting of the new fiscal year. Borgon opened the floor for nominations for the office of chairperson of the Birmingham Area Cable Board. All votes were taken by a show of hands.

Hirsch nominated Robert Borgon to continue as chairperson of the Cable Board. Borgon accepted the nomination. There were no further nominations for Board chair.

A vote was taken to elect Bob Borgon as chairperson. Borgon was elected by acclamation.

Nominations for the position of vice-chairperson of the Cable Board were accepted. Pfeifer nominated Mel Ettenson as vice-chair. Ettenson accepted the nomination. A vote was taken to elect Mel Ettenson as vice-chair. Ettenson was elected vice-chairperson by acclamation.

Borgon opened the floor for nominations for Treasurer of the Cable Board. He mentioned that the Treasurer and Secretary position can be combined.

Ettenson nominated Decker to serve as Secretary/Treasurer of the Cable Board. Decker accepted the nomination and was elected Secretary/Treasurer by acclamation.

#### **RECOGNITION PROCLAMATION – JIM DELANEY**

Borgon read a Resolution of Appreciation recognizing Birmingham Area Cable Board member James Delaney for his distinguished service and extraordinary accomplishments as a member of

the Board representing Beverly Hills from September 17, 2001 through June 30, 2005. Jim Delaney served as Treasurer for the Cable Board.

Motion by Ettenson, second by Woodard, to adopt the Resolution of Appreciation recognizing former Birmingham Area Cable Board member James Delaney.

Roll Call Vote:

Motion passed unanimously

#### **2004 ANNUAL REPORT**

The 2004 Birmingham Area Cable Board Annual Report was prepared by former Cable Board Executive Director Kathryn Hagaman. The report will be forwarded to each of the member municipalities for their review. In past years, members of the Board have attended council or commission meetings to present the Annual Report to those bodies and answer any questions members may have.

Borgon noted that the Annual Report should be amended to include Ron Fredrick's name in the list of Birmingham Board members.

Motion by Ettenson, second by Hirsch, to forward the 2004 Birmingham Area Cable Board Annual Report to the four member communities.

Motion passed unanimously.

Hirsch volunteered to present the Annual Report to the Birmingham Commission. Birmingham staff liaison Joe Valentine stated that the Annual Report will be included in the Commission's weekly information packet. If members have questions, the Board can respond to them. Ettenson will present the report to Bingham Farms; Gallasch will present it to Franklin. Beverly Hills Council liaison Pfeifer will schedule this as an agenda item for presentation to the Village Council.

#### **APPOINT BOARD DELEGATES TO NATOA CONFERENCE**

The annual meeting of NATOA (National Association of Telecommunications Officers and Advisors) will be held from September 22-25 in Washington D.C. Borgon remarked that one of the most important elements of these conventions is gathering information from other municipalities regarding what is being done with programming and PEG access. He suggested at the last Board meeting that PEG Chairperson Ron Fredrick attend as well as the new Board Chair. Brian Jones has also expressed interested in attending. Board members were asked to consider appointment of delegates to represent the BACB at the NATOA conference in addition to Executive Director Tom Hanson.

Brian Jones commented that he worked in the State Legislature for nine years for the chairman of the Technology and Energy Committee. During that time he worked on the Michigan Telecommunications Act and had experience working with the people who moved that legislation through the process – lobbyists, interest groups and department people. With the

convention being in Washington this year, Jones thought it might be helpful to the Board if he were one of the attendees.

Fredrick acknowledged Jones' experience. He related that Kathy Sherman, President of the Michigan Chapter of NATOA, is hoping that the various boards that send representatives to Washington are willing to be coordinated with respect to their approach in contacting Legislators. NATOA has engaged the services of the ProTec Group, provider of Information Technology consulting services, and will rely on their lawyers to represent the interests of NATOA as well as the Michigan Municipal League.

Fredrick commented that Michigan municipalities are at risk of losing franchise fees. At the last NATOA meeting, a lawyer from ProTec reported on its progress and related interesting developments including potential partnerships with Comcast. Michigan NATOA is trying to effect some important developments, and it has been suggested that it would be helpful to have the chairpersons of the cable boards attend the conference.

It was clarified that the fiscal year 2005/06 budget allocated funding to send two Board members to the NATOA conference in addition to the Executive Director.

Ettenson thinks that the Board should bear in mind that it is sending delegates to this conference to represent our cable consortium as well as members of Michigan NATOA. The delegates are there to fact find and report back.

Hanson commented that it is also important to lobby considering the high stakes involved. He recommends that the chairperson attend the conference for the reason that he is the person who signs letters that will go to Legislators. Attendees will be expected to present a unified message with representatives from NATOA and ProTec. With respect to the knowledge that Mr. Jones could contribute, his attendance would be well received.

Ettenson asked Board Attorney Tim Currier to comment on the appropriate role of the Cable Board delegate to the NATOA Conference. Currier agreed that this is a crucial year because of the legislation that has been introduced in Congress and considering the lobbying efforts by cable providers to eliminate the ability of municipalities to control their rights-of-way and charge a franchise fee for the use of those rights-of-way.

Municipalities own the right-of-way where these cables are laid or strung. Cities have a right and duty on behalf of their citizens and taxpayers to charge the fair market rental so that companies who are doing business in the rights-of-way are paying the municipalities for their usage. There has been legislation introduced that would deprive cities of that right and allow companies the free use of rights-of-way. This course has begun not just in Washington but in Lansing, and has been appearing in different formats.

There are many organizations that have a commonality of interests, including ProTec. ProTec was specifically organized as a response to the Michigan Telecommunications Act. Their interest is in controlling the rights-of-way for the communities and securing the appropriate revenue from either the cable provider, telecommunications carrier, utility, or whoever is using the rights-

of-way. NATOA's interest is broader and extends to all television issues. The NATOA group represents everyone in the industry and not just municipalities. The Michigan Municipal League works in conjunction with ProTec and will be represented at the conference. Their interest includes everything previously mentioned plus Internet, wireless, and other regulations. The common interest and most important issue is the continuing fight over municipalities' rights-of-way.

Currier thinks that delegates' responsibility is to work for its individual communities, keeping in mind that this Board is very proactive in representing the citizens on a number of issues involving the cable provider and community complaints. The Birmingham Area Cable Board is one of the leaders in the State. Delegates from this cable board should be at the conference to work with these various organizations. The attendees have a responsibility to represent not only the consortium communities but the entire State in a good manner when they are in Washington with our Legislators.

Pfeifer suggested that, since the 2005 NATOA conference is such a critical meeting, the Board consider amending its budget to include funds to send a third member to the conference in addition to the Executive Director. It was estimated that the cost would be \$1500.

Motion by Pfeifer, second by Woodard, to amend the 2005/06 Birmingham Area Cable Board Budget to include funds to accommodate sending a third Board member to the 2005 NATOA Conference in Washington, D.C.

Motion passed unanimously.

Motion by Ettenson, second by Pfeifer, to authorize Ron Fredrick, Brian Jones, and Bob Borgon to attend the NATOA Conference in Washington, D. C. from September 22-25, 2005 in addition to Executive Director Tom Hanson.

Motion passed unanimously.

### **BEVERLY HILLS INTERNET REQUEST**

Pfeifer asked that the Board consider a funding request from Beverly Hills that involves contracting with Comcast to provide high speed Internet service to one computer in the Village Clerk's office. Currently, Beverly Hills is connected to the Internet through OakNet of Oakland County, but there have been problems with that connection. Robert Ferkel from Enterprise Computer Solutions, technical advisor to Beverly Hills, has detected a faulty installation. It is difficult to get Oakland County out to make any corrections.

Pfeifer remarked that the cost of the service for a municipality is approximately \$80/month, which is almost double the cost of service for an individual homeowner. She outlined reasons why it would be beneficial for the Village to have this connection, including the ability to provide webstreaming if the Board decides to proceed with that function. Pfeifer reminded the Board that, since the inception of the Cable Board, Beverly Hills has provided financial services for this body in terms of administering PEG funds and writing checks for expenses incurred by

the Board. A fee is not charged for those services. The Board also benefits by efficiencies in audit fees by engaging the Village's auditing firm.

Motion by Woodard, second by Hirsch, that the Birmingham Area Cable Board fund the high speed Internet connection for one computer for the Village of Beverly Hills at a cost not to exceed \$100/month in recognition of Beverly Hills services to the Board.

Currier noted that this expenditure will be revisited annually in conjunction with the Board's review and approval of the Cable Board Budget.

Decker stated that it appears that the administrative service that Beverly Hills is providing the Board is equal to the amount of money that will be spent on this Internet connection. He questioned whether long standing Board members have that confidence.

Borgon thinks that \$100 a month for services provided by Beverly Hills is well worth the Internet connection. He added that the Board is using the Beverly Hills municipal facility for its monthly meetings.

Ettenson commented that he has a problem with this expenditure in principal. The Village of Bingham Farms recently funded an Internet connection to its municipal offices. He thinks that this expense may set an unfavorable precedent. He suggested that the Board be charged for the services that Beverly Hills is providing, which may enable Beverly Hills to afford the Internet connection for the Village Clerk. Ettenson remarked that it might be more equitable for the Board to consider subsidizing Internet service for Beverly Hills at a fixed amount rather than pay the entire fee.

Fredrick expressed the view that it is a practical matter to do away with extra paperwork and handle this matter informally.

Motion passed (9-2).

## **COMMITTEE REPORTS**

### **PEG Committee**

Fredrick reported that the PEG Committee is working towards three initiatives to make municipal channels more accessible to potential viewers. It is proposed to standardize schedules to make programs easier to find and group shows together that have similar viewer appeal. An attempt will be made to streamline the bulletin boards by limiting it to community related subjects while increasing display of our program schedule.

The committee has taken a modest step towards standardizing the schedule on M-15 and M-18. In moving forward on these initiatives, Channel 18 presents a bigger challenge than M-15 because it services Bloomfield Township in addition to the four consortium communities. BCTV is exploring what it would take to provide the BACB with its own bulletin board on Channel 18.

### **Cable Action Committee**

Hirsch reviewed that a subscriber wrote to the Board a couple of months ago saying that Comcast cable boxes can record only programs that are listed in the Comcast program guide. Because meeting replays are not listed individually, they can be recorded only by choosing the 12-hour public access segment in the program guide. Comcast representative Louise Beller was asked to speak with Leslie Helwig from BCTV about this issue.

Beller responded that it would be very involved to do hour-by-hour programming at this time. Everything would have to be time coded. If meetings ran over the scheduled time, this could cause all sorts of issues. Beller explained that Comcast does not control the program schedule; it is sent directly to TV Guide under the general category of Government Channel. At this point, the ability to record individual meetings might be a long-term goal. Beller indicated that future upgrades in the DVR software could allow Comcast to do channel and time segments. Comcast is always rolling out new products, so the next release may be able to provide more flexibility and address this problem.

Helwig stated that BCTV publishes its schedule monthly for M-15 with specific time slots for each meeting. Borgon commented that the program times have to be communicated to the source before anyone at home can record a particular meeting. Helwig proposed that BCTV and Comcast work together and see what can be accomplished with respect to this issue.

Hirsch stated that there are frequent subscriber complaints with regard to Comcast rate increases and reductions in service. Tom Hanson was to consult with the Board's attorney to determine if the franchise agreement with Comcast is being violated.

Hanson responded that this discussion has not taken place. He will explore this subject more closely and do due diligence before taking a perceived negligence list to the attorney. It has been brought to his attention that the matter of liquidated damages was addressed in 2002 and there is a memorandum to this effect. Hanson will be communicating with the Cable Action Committee on this subject.

Borgon provided background information on circumstances that led to the Board assessing liquidated damages to Comcast in 2002 for uncured defaults. The Board eventually reached a settlement agreement with Comcast to resolve outstanding customer issues and waive liquidated damages for defaults by seeking an alternative through a system-wide rebate to customers. In addition, a number of customers received credits for their complaints. Going through the punitive damage process established the fact that the Board does have a hammer and can use it if it chooses.

Hirsch brought up the frequently asked question of why cable rates continue to increase. Comcast's response has been that the value of what it provides has grown. The committee would appreciate if the Comcast representative would clarify this by providing examples of increased values and explain how they relate to the cable company's annual rate increases.

Beller stated that she has provided the Board with a written summary of some of the points she has discussed at previous meetings. She reiterated that Comcast provides value for its customers

in terms of the cable programming received today versus what was received five years ago or 20 years ago. Comcast now has cable-only programs with Neilson ratings and viewer appeal that surpass previous programming. Beller provided examples.

Comcast has launched Channel 8 Comcast Local and supports a website for that station. The company has received tremendous feedback on its local sports coverage. Beller referred to the unique value that Comcast provides in its local/community/government access channels. Comcast provides free basic cable and high speed Internet and curriculum support at no cost to its local school districts.

In answer to an inquiry, Beller stated that high speed Internet service is not provided free of charge to the municipalities. Lisa Martinico noted that the Birmingham School District does not use Comcast Internet service because it has another Internet service provider.

Hirsch stated that the quantity and quality of what Comcast provides is impressive. However, he questioned why the price has to increase every year to pay for those ongoing services.

Beller stated that Comcast is in the business of running a business, and costs increase every year. There are multiple factors related to the cost including programming fees, employee salary increases, payment of local taxes, etc. Comcast is proud of the value it provides, and customers have choices and options in terms of a variety of services.

Hirsch commented that Comcast makes huge profits on its service. He expects that the annual rate increases imposed by Comcast do not have to be as steep as they are.

Currier mentioned that Ms. Beller was asked by the Cable Action Committee to respond to the question of increased value that Comcast is providing with respect to continued price increases. She cited Comcast's educational/community/government support in her reply. Currier clarified that Comcast is required to provide local education/community/government support. Comcast is also required to provide the communities with channel availability. Another justification for the price increase mentioned by Beller was Comcast providing free cable to the schools. There are requirements in the franchise agreement addressing some of these services. This does not justify a price increase. The Birmingham School District is not even taking advantage of the free Internet service offered.

Beller concurred that Comcast is required to provide access for local educational, community, and government support. Comcast thinks it is valuable that it provides high quality programming and that it has the resources to maintain those channels. Comcast has a head end that is managed by technical people who make sure that channel problems are quickly rectified. She commented on band width restraints and analog capacity with respect to Comcast's ability to provide service and value to the constituents.

Hirsch stated that he appreciates Beller's response, but remarked that many of the items cited are considered ongoing business expenses and not a change in service. He does not think the Board has heard an answer as to how the items mentioned by Beller specifically relate to the annual rate increases.

Hirsch remarked that it was established at last month's meeting that Comcast does not automatically credit the account of subscribers who have had a service outage. For this reason, The Cable Action Committee proposes that the Board issue a news release advising subscribers that they will have to ask for a credit from Comcast if they experience an outage.

Ettenson suggested that the Board distribute this information to member municipalities so they can advise citizens through an article in their newsletters. It was suggested that the Board draft an article for submission to the clerks of each community.

At a previous meeting, Brian Jones asked a question of the Comcast representative but did not feel that the answer was satisfactory. Jones asked whether analog subscribers will lose the ability to watch their channels if they do not want to convert from analog to digital.

Beller responded that the answer is that analog subscribers would not lose the ability to watch their channels if they choose not to switch to the digital tier. The analog subscriber will now need a digital converter box to receive the premium channels that they received prior to June without a box. Information has been provided at Board meetings on promotional digital package rates being offered at this time that may make it advantageous to upgrade to the digital tier.

Hanson commented that included in the Board's packet is a newspaper article sent to him from Brian Jones. The June 19, 2005 article is entitled, "Cable users haggle for lower bills", and it goes into how customers may speak with Comcast to haggle over their bills.

## **COMCAST RELATED TOPICS**

### **Subscriber Complaints**

Hanson reported 11 new complaints in the past month. Seven were regarding service; two regarding price and competition concerns; one objecting to paying a franchise fee; one repeat complaint related to Comcast subcontractors having cabling strewn across residential outdoor walkways. There continues to be service, price, and competition concerns.

Hanson mentioned a complaint from Williamsburg Condominiums that is a recurrence of an issue that the Board thought was resolved two months ago. A subcontractor left cables strewn across residential outdoor walkways after installing cable service.

Beller researched this complaint. She explained that the Comcast contact who handles that area met with the maintenance manager for the condominium complex and set up a process by which all maintenance issues for the association would go through the maintenance manager. The last two complaints involving exposed cable came directly to the Board from the president of the condominium association rather than following the procedure of going through the maintenance manager. Beller encouraged people to observe the process that has been established.

Board members commented on the business practice of Comcast crews and questioned why the installers would create a tripping hazard. Hanson will follow up on this complaint to determine whether the condo association president is satisfied with the resolution of this issue.

### **Monthly Subscriber Statistics**

There were no comments on the Comcast system statistics for May and June.

### **Other Issues**

Beller has provided Board members with an updated quarterly complaint log using the format provided last month. It was pointed out that some of the sentences under the Resolution heading were not complete. Hanson will electronically modify the format of the chart to include the resolutions in their entirety and resubmit the report to the Board.

Beller announced that Comcast is offering a free film series every Saturday evening this summer at Campus Martius Park. The Leaders & Achievers scholarship winners recognition reception will be held on August 2, 2005. Birmingham Cable Board members and school officials will be invited.

Comcast has new On Demand content that is being added every month including programming for kids from six to 12 year as well as new feature movies. Beller announced that Comcast has increased the speed of its high speed Internet service at no additional cost to subscribers. Also in the Board's packet is a chart that was prepared to clarify how the premium channel movement may or may not impact a subscriber.

Beller included a communication in the Board's packet that referenced a change in Channel 22. Effective June 30, 2005, Comcast will air CTND (Catholic Television Network) on Channel 22 full time for the reason that the College Cable channel is going out of business. CTND will also continue to be shared on Channel 27 for the immediate future.

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

Hanson reported that the Camera Control Unit (CCU) in the BACB truck is in need of service according to BCTV staff. The equipment is over seven years old and has been sent to Roscor for repair at an estimated cost of \$122.50. There is a record deck in the truck experiencing problems that may need service as well.

Hanson commented that storage of the BACB mobile van outdoors in extreme hot and cold temperatures continues to be a problem. He is open for any suggestions from Board members regarding storage of the truck. The van is currently being parked in the BCTV parking lot where the cameras are brought in and out of the building.

Lisa Antuna, staff member from BCTV, commented on problems with the new digital deck, which may or may not be related to the hot weather.

Hanson reported that he attended the July PEG Committee meeting and is pleased with the progress being made. An invoice was paid to Roscor in the amount of \$48.00 for BNC cable connection parts used in the installation of BCTV's newly acquired playback system.

Hanson asked for clarification of the letter from Comcast notifying subscribers of a change in Channel 22. CTND (Catholic Television Network of Detroit) is being shown 24/7 on one

channel and on another channel for one-half day before switching to CSPAN at 6 p.m. He questioned if there is a plan to avoid this duplication.

Beller answered that Comcast responded as quickly as it could after learning that the College Cable programming was no longer in business. The most efficient solution was to move the CTND programming to channel 22 in order to provide the least amount of customer interruption. A decision was made to have dual carriage on channel 27 until Comcast can evaluate options for making a permanent change.

### **MLTV15/PA18 REPORT**

Leslie Helwig introduced new staff member Lisa Antuna and provided background on her experience in programming and equipment expertise. Antuna may be representing BCTV at future Cable Board meetings.

There were six regular municipal meetings taped during this time period. The following non-meeting MLTV-15 shows were also taped: five In the Park concerts, one Franklin Concert in the Green, one Beverly Hills Concert, three Summer in the City, and three Eye on Oakland programs. The fourth Franklin Nature Series has been edited, and all four have been airing.

BCTV has taped two Private Paradise shows this month and one Talk of the Town. More of each are scheduled for later this month. BCTV has been working with the PEG Committee Chairman on information requested by that committee.

Pfeifer commented that there have been a couple of complaints from residents regarding the quality of live broadcasts of the Beverly Hills meetings. Helwig will pass this information on to the BCTV staff and report back next month.

### **OLD BUSINESS**

None

### **NEW BUSINESS**

None.

### **BOARD COMMENTS**

Fredrick thanked Louise Beller for passing on the Board's request to have TV Guide change Channel 15 on the program listing from municipal programming. This was done immediately. He thanked BCTV for changing its program guide for channel 15 to make it more descriptive.

Decker mentioned that, at the last meeting, he raised the topic of the need to bring competition into the communities. He did some general research of GAO Reports (U.S. Government Accountability Office) from October 2003 that addressed bringing a wire based provider into an area that already has a provider. This reduced rates by an average of 15% nationally. The finding of the report was that satellite dish service does not provide effective competition. Only 2% of cable markets have an overbuild.

Borgon recognized a distinguished individual in the audience, Mr. Don Gillis, previous attorney representing the Birmingham Area Cable Board, whose input and contributions to the Board and the consortium communities was valuable and appreciated. Gillis thanked Borgon for his kind remarks. In listening to the discussion, he thinks the Board is doing an excellent job. Carrier remarked that Don Gillis is special counsel to Beier Howlett and actively assists the firm. Gillis deserves much of the credit for resolving the franchise fee issue with Comcast.

Joe Valentine reported on the status of the Birmingham Commission chamber upgrade project, which is near completion. The Board approved a grant in the amount of \$130,000 to the City of Birmingham for that work. It included new cameras, switchers, mixers, character generators, audio equipment, racks, monitors, a web streaming component, etc. There is a new lighting component for that room that allows for better video quality as well as new microphones, audio equipment, and presentation equipment for the Department of Public services where the Commission also conducts meetings.

To date, Birmingham has received \$125,000 of the \$130,000 grant. Valentine is pleased to report that the approximate cost of the project is now about \$125,000, so Birmingham will not need the final allocation from the Board.

**PUBLIC COMMENTS**

None

The meeting was adjourned at 9:30 a.m.