

Present: Jones, Mancini, McLain - Birmingham
Borgon, Heyman, Pfeifer, Verdi-Hus – Beverly Hills
Gallasch – Franklin
Ettenson – Bingham Farms

Absent: Woodard - Beverly Hills
Kott – Birmingham

Also Present: Hanson - Executive Director
Currier - Attorney for Cable Board
Rota - Bloomfield Community Television representative
Beller - Comcast representative
Valentine – Birmingham staff liaison
Martinico – Director of Technology, Birmingham Schools

Chairperson 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 CABLE BOARD MEETING HELD SEPTEMBER 20, 2006

Motion by Ettenson, second by Mancini, that the minutes of a regular Cable Board meeting held on September 20, 2006 be approved as submitted.

Motion passed.

PUBLIC COMMENTS

Judy Hoeffler, representing The Community House of Birmingham, stated that facility is a cultural, non-profit institution that has served surrounding communities for over 80 years. She highlighted a number of programs and services that the Community House is known for, emphasizing that it is supported solely by donations and grants. Hoeffler thanked the Cable Board for its work and acknowledged that Comcast has become a friend of The Community House. Two programs that are supported in part by Comcast are the Race Relations and Community Task Force and the Storytellers Guild.

Dave Frink on Frank Street in Birmingham voiced dissatisfaction for the third time with his cable television and customer service from Comcast. He has dealt with Comcast to resolve issues during the months of April through September and has received a \$40 credit, which he does not believe compensates for his trouble. Frink asked the Board to take whatever action within its authority to institute a policy whereby all Comcast cable billings would be suspended for any problem that is not resolved within a two-week period. Frink requested an organizational chart with names, titles and phone numbers of Comcast executives who manage the business in Michigan. He would like Comcast to be required to create a flyer that promotes the awareness and function of the Birmingham Area Cable Board and include it in monthly billings a few times each year. Frink also asked the Board to request the attendance of Comcast's top executive in Michigan at next month's meeting to answer questions regarding Comcast's lack of a workable escalation policy.

Laura Couger, Executive Director of Birmingham Bloomfield Families in Action, stated that the organization focuses on parent education with the ultimate goal of prevention of drug and alcohol use in school age children. She talked about some of the positive things that Comcast is doing within the community. They have agreed to sponsor the organization's parent education programs this year whereby experts in prevention fields speak before parents, educators and community leaders throughout the year. Comcast's support allows Families in Action to provide its parent education programs without charge to the community.

COMMITTEE REPORTS

Cable Action Committee

McLain reported that she and Tom Hanson met during the last month to review highlights from the last Cable Board meeting. Topics included their NATOA contacts made during the recent convention, a memo from Mike Salhaney regarding franchise guidelines for technical or service audits, promoting public awareness of the Cable Board, and the Nof's Bill being fast tracked through the Michigan House of Representatives. McLain remarked that there is detailed information available on the BACB web site on this House Bill and its consequences.

McLain reported that BCTV staff has followed up on audio issues reported on Channels 15 and 18, and the problem seems to have improved.

Dates for upcoming Cable Action Committee meetings in the next few months are as follows: October 25, November 29, January 3, and January 24 at 5:30 p.m. in the Jeanne Lloyd room of the Baldwin Public Library.

In response to an inquiry, Comcast representative Beller indicated that there is nothing new to report on the Board's inquiry with respect to Hispanic programming or providing a senior tier.

McLain indicated that the vice-chair of the Cable Board has suggested submitting another letter to the President of Comcast requesting a written response to the Board's request that Comcast provide a senior tier. It has been mentioned that the franchise agreement addresses the lack of receiving a written response within a certain time period.

Beller asked for clarification because she has provided a written response to the Board on the question of whether Comcast is considering a senior tier and has addressed the topic at a number of meetings.

Ettenson responded that Beller did provide a response to the Board after its first letter requesting a senior tier. It has been suggested that the Board resend the letter to the chairman of the board of Comcast, who is a senior citizen, and ask for his response as to why a senior tier is not being considered by the cable company.

Beller reiterated that Comcast's decision making process involving local marketing channel lineups are made at the local level. Decisions on individual program offerings are not made in all cases unilaterally throughout the country without considering market needs. When a request to Comcast is submitted to Philadelphia, the request would be rerouted to the local market leader who would work with a community liaison such as Beller to develop a market-based

response. Beller stated that program offerings are reviewed at least annually, and input is evaluated based on programming contracts, customer feedback, cable boards, and other factors. At this time, there has not been a decision to provide a senior tier.

In answer to an inquiry, Beller stated that the family tier is a national program with different channels available on a market by market basis. Ettenson questioned why the family tier is considered a national program while a senior tier is not considered to be as important.

McLain reported that there has been a decrease in the number of complaints received in the last month. Beller has provided the Board with copies of a number of positive customer comment cards received by Comcast. McLain explained that these cards are available at the local bill payment center and are also provided to subscribers during a service call by a Comcast technician.

McLain related that she experimented with the Comcast online chat format, and it was a positive experience. People who have questions about cable television can go online and talk with a Comcast representative. The user friendly link is available at the Comcast.com web site.

McLain recapped her search for indoor storage for the BCTV production van. The commercial truck carries expensive television equipment and requires indoor, drive-up storage space at a height greater than eight feet with 24-hour access and security. McLain recommended using the services of Extra Space Storage on Coolidge Hwy between 14 and 15 Mile Roads in Troy. She noted that there are no climate control facilities available in this area. The Board can opt for a month to month payment of \$303 or sign a contract for one year with a 12% discount on the total. The site manager has agreed to hold the available space without a fee until after today's meeting. The space can be held for one month for \$25.

Borgon suggested that the BCTV staff inspect the location and provide its recommendation to the Board for action at the next meeting.

Motion by Ettenson, second by Pfeifer, to expend \$25 to reserve space at Extra Space Storage for one month until the feasibility of using this location to store the production van is investigated.

Motion passed unanimously.

PEG Committee

Mancini reported on the September PEG Committee meeting. The major topic of discussion was the development of a new contractual agreement with a broadcast vendor. The PEG Committee agreed that the current contract based upon the former Request for Proposal is not specific enough. A new RFP and contract should include specific program airings and rebroadcasts; the contract should include contingencies for special meetings and specify added production costs not part of the contractual fee. Survey results should be considered in terms of specific enhancements in programming to be developed. Mancini and Hanson are currently examining a programming option from TVTN brought to their attention by Chairman Borgon.

The PEG committee would ideally like to receive bids from at least three vendors including BCTV. A notice for bids will be placed in the Birmingham Eccentric and the Eagle newspapers to ensure maximum exposure to potential vendors. Mancini reviewed the timetable for finalizing the RFP, releasing it to vendors, and receiving responses. He reviewed contingency plans in the event that the contract must be terminated or modified due to vendor changes, delay in signing the contract, or federal and/or state regulations.

Mancini reported that he and Hanson met with representatives from Intellitrends on October 13 to preview the survey results and finalize details of their presentation to the Board. A 15-minute executive summary of the survey results will be presented today. Two major points of interest are: 1) The response rate exceeded industry norms by four times; and 2) The response rate was within the original cost estimate and there is no need to use contingency funds authorized by the Board.

Mancini stated that an agenda item for the next PEG Committee meeting will be to incorporate specific recommendations relative to enhancing programming as a result of the survey detail.

PRESENTATION BY INTELLITRENDS –VIEWERSHIP SURVEY OVERVIEW

Marlene Stone, President of Intellitrends, presented an overview of the Birmingham Area Cable Board Subscriber Survey results. Board members are in receipt of a copy of the in-depth survey results including a section with verbatim comments from respondents.

The subscriber survey was designed and implemented by the Birmingham Area Cable Board and Intellitrends Market Research from September 6th through September 29th. The results are reflective of 696 surveys; 650 via direct mail and 46 online. The objective of the study was to gather feedback from households in the BACB viewing area (Birmingham, Bingham Farms, Beverly Hills, and Franklin) relative to their perceptions, use and programming preferences for both Municipal Channel 15 and Community Channel 18.

A total of 6,000 initial surveys were sent to a random sampling of households. A total of 696 returns were received, or 11.5% as compared to industry averages of between 2% and 5%. The distribution of those returns was strongly reflective of the distribution of households in the BACB viewing area according to recent U.S. Census Household data.

Stone reviewed the executive summary and highlights of survey results encompassing the following topics: TV Programming Access, Awareness of Municipal Channel 15 and Community Channel 18, Viewing of Channel 15 and Channel 18, Source of information on Channels 15 and 18, Reaction to additional BACB Opportunities for viewers, and Awareness of BACB web site and additional comments. (The executive summary is attached to the meeting minutes.)

A few questions on the survey results were addressed by Stone. Mancini remarked that the PEG Committee will be discussing specific recommendations for its cable access management provider in terms of enhancing programming to give the viewers what they want based on survey results. Borgon commented on the information contained in the survey results including verbatim comments from subscribers. He thanked Marlene Stone for her presentation.

PRESENTATION BY PLANTE-MORAN 2005/06 FINANCIAL AUDIT

Monika Lesinski from Plante & Moran presented the audit report of Birmingham Area Cable Board financial statements as of June 30, 2006. The Board's financial statements received an unqualified audit opinion.

Lesinski referred to the Governmental Fund Balance Sheet and Statement of Net Assets, which follows the format required by the Government Accounting Standards Board. The total assets for the year ending June 30, 2006 are \$1,037,000, an increase over the previous year. Most of the assets are comprised of cash and investments. The end of year Fund Balance is \$1,033,000. Lesinski reviewed the Statement of Governmental Revenue, Expenditures, and Changes in Fund Balance/Statement of Activities. A copy of the audit report is on file at the Cable Board office for public review.

Lesinski referred to the Budgetary Comparison Schedule showing the original adopted budget compared to the actual revenues and expenditures for the year. Total revenue for the year exceeded budget by \$52,388; expenditures were under budget by \$104,533. There were several line items that had an unfavorable variance. Lesinski recommended that the Board monitor expenditures throughout the year and make budget amendments as necessary.

In answer to an inquiry, Currier stated that it is good practice for the Board to look at the budget on a quarterly basis and make amendments to line items that are over budget. Executive Director Hanson will schedule an agenda item to consider budget amendments at the November meeting.

Borgon thanked Ms. Lesinski for her report. A copy of the audit report will be forwarded to the member municipalities for their information.

DISCUSS BOARD FINANCIAL SUPPORT FOR MEDIA/LEGAL SERVICES REGARDING STATE LEGISLATIVE ADVOCACY

Hanson reported that he attended a Summit meeting regarding State Legislation on October 4 attended by representatives of the Michigan Municipal League (MML), Michigan NATOA, PROTEC, and the Michigan Township Association. In light of the fast tracking of the House Bill (H.R. 6456), the summit meeting was held and attended by members of these groups as well as cable board representatives and other officials across the state. They discussed what can be done with respect to educating legislators, local governments and residents as to what is at stake if the Nof's Bill is passed.

Contributions are being requested from local Michigan governments and public access cable representatives in order to raise a targeted amount of \$100,000 to be used to hire national legal assistance and to fund a statewide media campaign to take place before the House vote on the Nof's Bill. Hanson recommended that the Birmingham Area Cable Board consider setting aside \$5,500 (approximately 3% of the Board's 2006/07 operational budget) to contribute towards media/legal services for state legislative advocacy coordinated by this alliance. He mentioned that AT&T lobbyists outnumber municipal lobbyists 100 to one.

The Board discussed allocating this money for use to re-educate local municipal officials and House Representatives, public speaking/TV interviews to explain pending legislation, brochures highlighting key points of legislation, 30 second public service announcements for cable television channels, hiring a legal assistance, and local newspaper articles.

It was questioned whether the Cable Board can expend funds for lobbying purposes. Currier responded that two things to consider are State Law and the Intergovernmental Agreement that created this body. General State Law addresses what a government body can do with respect to lobbying efforts. Currier referred to an Attorney General's opinion stating that a public body may expend public funds to objectively inform the people of issues related to the function of the public body. In the past, the Michigan Municipal League and PROTEC have expended funds on issues related to the functions of government. There is the question of how funds will be expended and if they fall into permissible categories of expenditures to educate the public on functions of the public body.

The four consortium communities organized this Board under an Intergovernmental Agreement to administer the franchise agreement; the question is whether this goes beyond administering the franchise agreement. There has been much conversation over the last several months about the activities of AT&T and other telecoms in terms of attempts to change the law and how this will effect municipalities. There is a strong belief that it is in the best interest of the communities to protect the rights-of-way and the franchise agreement that provides a cash flow to the communities.

Currier stated that Board members may want to consult with their member communities to see if contributing to this undertaking is something their governing bodies want the Board to pursue. He noted that requests for funds are also being made to individual communities. The municipalities may defer to the Cable Board to gain more knowledge on the subject.

Currier concluded that the answer is that the Cable Board can expend funds for lobbying purposes, but he does not know if the Board has all the necessary information to make that decision.

There followed a lengthy discussion of the Board on whether it should contribute towards media/legal services for state legislative advocacy. The question was raised as to whether it is the Board's responsibility to educate the public.

Brian Jones suggested that the Board should do everything it can to contact Legislators and the media to put our spin on this issue. He questioned this expenditure given the uncertainty of Board funding in the future. Jones also cautioned that events occur and change quickly with respect to the legislative process. Mancini concurred that it would be effective to continue with writing campaigns. He is sympathetic with the cause but has concerns with spending money on this lobbying effort.

Ettenson suggested that the next step should be for the Board to address this issue with the consortium communities and ask if they wish to particulate in this advocacy effort. It was agreed that there should be an accounting of any funds donated for lobbying purposes.

Currier stated that it is not an illegal function for government to be involved in lobbying. There are strict state regulations on how that money can be spent. Currier clarified that franchise and PEG fees received by communities and the Board are not taxes; they are fair rental of the rights-of-way, which is the obligation of the cable provider to pay.

Borgon asked the Board to take a stand on Hanson's request to provide financial support to advocate against the passage of the House Bill. If members think it is a good idea, a letter should be sent to the communities with a recommendation for their consideration. Depending on the response from the consortium communities, this could be an agenda item for the next meeting.

Gallasch suggested that Hanson provide the communities with a document that summarizes the issue and what is intended to be accomplished with the funds. Hanson stated that the Michigan Municipal League has just released an action kit on its web site that includes five facts about the Cable Franchise Bill and a sample resolution for municipalities.

Motion by Gallasch, second by Pfeifer, to authorize the Executive Director to forward background information to member municipalities and request a response as to whether the Cable Board should contribute \$5,500 in support of media/legal services for state legislative advocacy.

Ayes: Borgon, Ettenson, Gallasch, Heyman, McLain, Pfeifer and Verdi-Hus

Nays: Jones and Mancini

Motion passed (7 – 2).

COMCAST RELATED TOPICS

Subscriber Complaints

Hanson reported that six new complaints were received since September 20. Hanson and Beller agreed that there is a need to examine of the process of confirming whether a complaint is pending or closed.

Beller mentioned that Mr. Frink was contacted by Comcast representatives the day after he appeared at the September Cable Board meeting. His issues were addressed and he was provided with the telephone number of a supervisor. The complaint was closed because Comcast did not hear from Mr. Frink since September 19. Additional credit was provided to the subscriber. Beller stated that a Comcast representative will follow up with Mr. Frink.

Comcast Updates

Beller reported that Comcast Michigan Region has launched an enhanced Interactive Program Guide for customers who have a cable box in their home. Comcast supported sports station OLN has changed its name to VERSUS. Dave Buhl has been named the Senior Vice President of Comcast for the Michigan region. Comcast held its sixth annual Comcast Cares Day on Saturday, October 7 when over 2200 employees conducted various community service projects throughout the state.

Pfeifer commented that she called Comcast for service last month and was given the option of requesting a call back. Her call was returned within the allotted half hour. She asked if this will be standard procedure. Beller responded that this change occurred in August to provide a call-back option to customers. Comcast has had positive feedback on the change to its IVR (interactive voice response).

Other Issues

Borgon commented that the ongoing pixilation problem in this area was a discussion topic at last month's meeting. He questioned what Comcast is doing about addressing pixilation issues. He suggested that a legal opinion should be sought on whether the Board can request a technical audit of the cable system.

Beller stated that there has been a decline in the number of pixilation complaints. She mentioned that Comcast had been experiencing heat related challenges and internal wiring issues. Comcast is confident in the product it is providing and does not consider this a wide-spread problem. The cable company is within technical compliance numbers required by FCC standards. Beller commented on the various aspects of the issue that have been investigated by Comcast including power outages related to heat and old, inferior wiring in a home.

Hanson reviewed that, at last month's meeting, the Board requested a report from Comcast on its system upgrades. It is the intent of the Board to explore in-home wiring versus system wiring in the field in order to make a comparison and understand what is within FCC specifications. Pixilation problems can be caused by squirrels or related to components to a system that have not been properly upgraded.

Beller stated that the wiring inside a person's home is customer owned according to the service agreement. There may be an charge for service if a customer does not have Cable Guard service offered by Comcast. Currier referred to Section 3.24 of the Franchise Agreement regarding property owners owning cable installed by the cable company.

There was concern expressed relative to the \$20 service trouble call charged by Comcast. It was suggested that there is a fine line between the determination of whether an issue is a Comcast problem or if it is caused by customer negligence. Hanson questioned whether there was a way to track whether area subscribers have been charged a \$20 trouble call fee and to determine whether the responsibility was that of Comcast or the homeowner.

Beller stated that, if a person calls with a problem related to customer owned equipment, the subscriber is informed that there may be a potential charge involved with a service call if they do not have a service contract in place. When the job is closed out, the customer is asked to authorize payment at the point of service by signing a ticket that indicates codes and a rate. The consumer has the opportunity to speak up at that time and note any problem on the report.

Ettenson suggested that the public should be educated that customers have to specifically ask for the \$20 service charge to be set aside.

Carrier commented on a point brought up earlier by Ms. Pfeifer regarding her call to Comcast and the fact that she was asked if a representative could call her back within a specified time period. Under the Consumer Protection Ordinance, Comcast is required to have sufficient customer service representatives and toll free telephone line capacity during normal business hours to assure that a minimum of 90% of all calls would be answered within 30 seconds and that 90% of calls for service would not be required to wait more than 30 seconds after such call has been answered before being connected to a service representative. All incoming customer service lines should not be simultaneously busy more than 3% of the total time the cable office is open on any business day. Carrier stated that the fact that Comcast is providing the courtesy of a call back does not relieve the cable company of the requirement to fulfill the standards. Borgon suggested that the Board keep track of this and consider assessing liquidated damages.

Beller responded that first and second quarter statistics show that telephone response numbers were in compliance with the franchise agreement. Borgon noted that the figures reported encompass an area that includes municipalities other than the four consortium communities. Beller remarked that call center statistics include the two call centers in the State of Michigan where overflow calls are directed. Information is not tracked for just the four BACB communities.

EXECUTIVE DIRECTOR'S REPORT

Hanson related information released yesterday by the Michigan Municipal League outlining five facts about the Cable Franchise Bill (house Bill 6456 (H-2):

Fact: This bill allows cable companies to terminate ANY current franchise contract immediately. This provision is unacceptable.

Fact: This bill allows phone and cable companies to redline and cherry-pick neighborhoods and homes. AT&T told its Wall Street Investors it was only going to serve 5% of 'low-value' residents. The current local system guarantees that all residents within a certain density receive service.

Fact: According to cable experts, this bill would result in approximately a \$47-\$57 million revenue impact to local communities, because of a potential loss of franchise fees and in-kind services provided by current cable company.

Fact: Right-of-Ways are left unprotected. With the elimination of current franchise contracts, this leaves the current cable company with very little ROW regulations. Cable companies do NOT have to get METRO Act permits.

Fact: Likely community, school and public access television will be eliminated or cut back due to revenue and in-kind service reductions. There are also several provisions that will increase operating costs on these facilities.

MLTV15/ PA18 REPORT

Rota reported on programming taped for Channel M15 and PA Channel 18 during the last month. He mentioned that BCTV will cover the Beverly Hills Halloween Hoot activities on Sunday, October 22.

BCTV staff met with Joe Valentine, a Comcast technician, and a representative from Roscor to diagnose audio problems reported on Channel 15 during live feeds (meetings). Some of the audio equipment was adjusted and the problem appears to be solved.

The Program Development Committee met and considered three new program proposals from Birmingham residents: an ongoing series about reading to children, a limited series about issues in sports, and a limited series in conjunction with the Birmingham Historical Society to be aired on M 15.

BCTV is attempting to fill its fourth production position and has been working short staffed since mid-June. BCTV held two volunteer workshops on Tuesday, October 10. Nine people attended and participants have already volunteered to assist on studio shows. Rota stated that there is a weekly guide appearing on the bulletin board that indicates when meetings are airing on the weekends and during the week.

Rota will set up a date and time to inspect the facility for storage of the production van. He noted that the proposed location would be convenient.

Borgon commented that there have been a couple of programming requests in the last month related to ballot issues such as dove hunting. He requested a legal opinion on what can and cannot be aired on the municipal and public access channels.

Currier clarified what is permitted and prohibited under state law and under BCTV rules of programming. Groups often request air time on municipal or public access channels in order to air their position or provide an educational piece for a candidate or ballot issue. Despite specific BCTV programming rules, a talk show will occasionally host a guest that gets into these types of issues, and the production cannot be censored. BCTV has a strict prohibition against airing any form of advertising for candidates or ballot issues on PEG channels.

Currier stated that PEG Access channels are not obligated under federal law to give equal opportunity access to individuals who makes a statement that is controversial or on election issues. It is also established by the Michigan Campaign Finance Act that a public body shall not use or authorize the use of funds, personnel, office space, computer hardware or software, property, stationary, postage, vehicles, equipment, supplies, other public resources, make a contribution or expenditure or provide volunteer personnel services for political purposes. Since these channels are only supported by public funds, it is not permitted by Michigan law to allow candidates or people advocating a position on any ballot issue to use these facilities.

Although a municipality can use funds to provide information in a lobbying effort, a public body may not expend public funds to inform people on issues that are not related to the function

of the public body. Therefore, it is not appropriate for a public information piece related to candidates or ballot proposals to be aired on these channels.

OLD BUSINESS

Pfeifer reported that the Beverly Hills Council passed a resolution at its October 17 meeting to request the taping and airing of three joint Council meetings with various boards in January, February and March.

Currier reminded the Board that the Open Meetings Act requires that a gathering of a quorum of members constitutes a meeting, which must be posted. This would apply to PEG meetings held following the Cable Board meeting.

Additionally, if a body is delegated authority to make decisions, it must post its meeting in accordance with the Open Meetings Act. He would suggest that the Request for Proposal for cable access management be brought back for consideration by the Cable Board as a whole as opposed to having the PEG Committee formalize the parameters of the RFP.

NEW BUSINESS

None

BOARD COMMENTS

Mancini stated that the PEG Committee will meet following the Board meeting. The committee will discuss the specifics of the RFP so that it can be prepared in final form for consideration of the Board at its November meeting.

PUBLIC COMMENTS

None

The meeting was adjourned at 10:14 a.m.