

Present: Kott, Mancini, McLain - Birmingham
Borgon, Pfeifer, Woodard – Beverly Hills
Ettenson – Bingham Farms

Absent: Abbott, Jones - Birmingham
Heyman, Verdi-Hus – Beverly Hills
Gallasch - Franklin

Also Present: Hagaman - Executive Director
Currier - Attorney for Cable Board
Rota and Helwig - Bloomfield Community Television representatives
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.

AMEND AGENDA

Motion by Ettenson, second by Pfeifer, to amend the agenda to remove item #6, “Birmingham Public Schools Grant Request”.

Motion passed unanimously.

APPROVE MINUTES OF CABLE BOARD MEETING HELD ON DECEMBER 20, 2006

Motion by Woodard, second by Kott, that the minutes of a regular meeting of the Cable Board held on December 20, 2006 be approved as submitted.

Motion passed unanimously.

PUBLIC COMMENTS

None

EXECUTIVE DIRECTOR’S REPORT

Hagaman stated that the major item of interest this month is the newly adopted State Cable Legislation. Attorney Tim Currier will update the Board on this item.

Hagaman reported that three new complaints were received in the last month and two were carried over from December. She outlined the status of outstanding complaints and will follow up with the subscribers.

Hagaman acknowledged that subscribers are often frustrated by the time they contact the Cable Board with a cable related problem. Many times Comcast has made an effort to contact these subscribers. She asked subscribers to call the Cable Board or Comcast to indicate whether they are satisfied with the resolution so it does not remain open.

Borgon reminded subscribers who lost cable service due to the recent ice storm that they can call Comcast and request a credit. Comcast does not issue a credit unless they are contacted by a subscriber.

COMMITTEE REPORTS

Cable Action Committee

McLain stated that the Committee did not meet last month. She reported details related to the six-month contract for storage of the production van. McLain reminded subscribers making complaints to the Cable Board that it is helpful to include detailed notes with dates and times.

In terms of what is happening with State Cable Legislation and the Michigan Public Service Commission, legal counsel for the Cable Board is requesting feedback and suggestions from Board members and the public relative to subscriber complaint procedures. Individuals may submit ideas for handling complaints including format, points of contact, timeline for response from companies, and any creative solutions. Comments on this topic can be submitted to McLain at ekmclain@aol.com.

McLain reported that the federal date for transition to all digital will be February 17, 2009. The next Cable Action Committee meeting will be held on Wednesday, January 24 at 5:30 p.m. at the Baldwin Library.

PEG Committee

Mancini reported on last month's PEG Committee meeting. The Committee discussed proposed programming enhancements requested by constituents via the survey and agreed on the direction to be taken.

Vendor bids for cable access management were opened following the December 20, 2006 PEG Committee meeting. The bid from CMN was \$119,500 for the first year and a 1.95% increase for succeeding years. BCTV's bid was \$165,000 for the first year with a \$10,000 increase for each of the following two years for a three-year total of \$525,000.

Chairman Borgon, Executive Director Hagaman, and Mancini met on December 22 to discuss the content of the bids as well as the impact of new state legislation on the decision making process. CDs from the two vendors were reviewed as a qualitative element of the selection process. There was concern expressed with the BCTV proposal regarding the increase in the cost for providing services with no enhancements to the respective communities. A consensus was reached to request presentations from the two vendors in order to gain an understanding of the rationale for the bids submitted. There was agreement that alternatives to the conventional method of providing local access programming should be explored.

A presentation was scheduled for CMN and BCTV on January 5, 2007. CMN opted out of the presentation to attend a meeting in Lansing.

Chairman Borgon appointed a selection committee to evaluate BCTV's presentation. The committee consisted of Mancini as chair, Borgon, McLain, and Gallasch. Executive Director Hagaman provided counsel following the meeting. The committee reviewed the presentation

and discussed Hagaman's executive summary of the bids and legal advice provided by Tim Currier. A number of alternatives were discussed in an effort to reach a recommendation.

It was the recommendation of the selection committee to seek a month-by-month agreement with BCTV that would: not violate the Board's fiduciary responsibility to its constituents; allow additional time for legal counsel to interpret the ramifications of state and federal legislation, and; provide additional opportunities to explore the enhancements requested by our constituents.

Mancini noted that the PEG Committee will not schedule further meetings until there is a determination of its role under new State Legislation.

Mancini read the proposed Agreement to amend and extend the cable access management agreement with Bloomfield Community Television:

"Effective February 1, 2007, the Birmingham Area Cable Board (BACB) and the Charter Township of Bloomfield, providing services as Bloomfield Community Television (BCTV) hereby amend and extend the agreement for cable access management that ended December 31, 2006. The term shall be extended to May 31, 2007 and the annual compensation changed to \$140,000, which shall be prorated and payable monthly and in advance on the first day of each month."

The contract Agreement will be signed by Dave Payne, Bloomfield Township Supervisor and Robert Borgon, chairman of the BACB.

Motion by Mancini, second by Ettenson, to extend the Agreement with Bloomfield Community Television for a term from February 1, 2007 to May 31, 2007 at an annual rate of \$140,000 or \$11,667 per month.

Board members discussed the motion and raised issues including the length of the contract extension with BCTV and the status of the CMN proposal.

Currier clarified that the Cable Board is extending the current contract with BCTV rather than renewing its contract or entering into a contract with a different company, primarily due to the uncertainties surrounding new State Legislation. This extension leaves the Board open to all other options including a bid process or private negotiations with carriers.

Hagaman explained that the monthly amount stated in the Agreement with BCTV is an interim contract to continue services and does not represent a change in their proposal.

Borgon stated that how the Board proceeds with a cable access management contract depends on the ramifications of State Cable Legislation and future funding.

Leslie Helwig, General Manager of BCTV, remarked that she appreciates the work that Board members put into studying the proposal from Bloomfield Community Television. She would be available to discuss BCTV's proposal with any members. Helwig indicated that she put a lot of

effort into the proposal and feels confident that it reflects the value of services that would be received by the consortium communities.

Helwig affirmed that BCTV is pleased to continue providing services on a month-to-month basis for a limited amount of time. BCTV staff has enjoyed working with each of the communities and are committed to community programming. Helwig mentioned that we are all up in the air due to recent legislation.

Roll Call Vote:
Motion passed unanimously.

COMCAST RELATED TOPICS

Subscriber complaints

Complaints were addressed during the Executive Director's report. McLain highlighted service complaints from two Birmingham residents (#06-148) and (07-01) and expressed the hope that Comcast will provide follow up to these subscribers.

Comcast Updates

The Comcast representative was not present.

Other Issues

None

MLTV 15/PA 18 REPORT

Stephen Rota representing BCTV reported on programming taped for Channel M15 and PA Channel 18 during the last month. He apologized to the Board and to Beverly Hills for BCTV's failure to assign production staff to tape the Village Council meeting of Tuesday, January 2.

BCTV's total program count for 2006 (excluding meetings) was 499. The next Camera Workshop is scheduled for Tuesday, January 30 at 10:00-11:30 a.m. and 6:30-8:00 p.m. The graphics system for the Village of Beverly Hills control room has been purchased and will be installed soon.

BCTV hosted Cub Scout Troop 1037 on January 10. Each scout had the opportunity to participate in the production of a short video featuring themselves as the stars of the show.

Board member Woodard recently viewed a PBS show on Channel 15 called *Moyers on America*. Helwig indicated that this was made available through special permission from Detroit Public Television to air that show. It is an excellent program that includes background on AT&T, which is a timely topic. BCTV was not charged for this program. Helwig added that this program was made available to BCTV by a former BACB member Dave Devereaux.

Borgon related that Beverly Hills staff uses an analog voice recorder to tape municipal meetings. It is out of date and needs replacing. He asked Rota what it would take to incorporate equipment into the Council cable control room that would enable meetings to be recorded.

Rota suggested that BCTV consult with Roscor, the company that installed Birmingham's control room system in order to determine the best option for Beverly Hills. Birmingham has a computer operated system that records all their meetings. Nancy Weiss from Birmingham operates that system. Joe Valentine stated that he would provide any information or specifications on Birmingham's equipment to BCTV.

Borgon asked for a ball park figure on this equipment for the next meeting. He also suggested the possibility of a Beverly Hills staff member learning to operate the system to the extent that they could tape a Council meeting without airing it live. Rota responded that BCTV could set up a training session in the control room for this purpose.

OLD BUSINESS

Attorney Tim Currier updated the Board on the State Cable Act signed into law by Governor Granholm effective January 1, 2007. The Federal Communications Commission announced that it would issue orders that would affect the cable world nationally including the elimination of PEG fees unless there is a state or local franchise that requires them. Currier reported that the FCC has not yet written or published these orders.

Currier remarked that the Federal Cable Act is superior to an FCC order or State Law. Congressman Dingell, author of the federal statute, has been asked to take action legislatively at the national level to sort out this confusion.

On the state level, the Michigan Public Service Commission has been charged by statute to produce a draft Uniform Franchise Agreement that was to be available by the end of the month. At this point, Currier is unaware that the Public Service Commission has even embarked upon the drafting. It has requested comments on the procedures to be invoked by the Michigan Public Service Commission to handle complaints. Currier questioned how procedures for handling complaints can be addressed before reviewing a draft Uniform Franchise Agreement. The Uniform Franchise Agreements are supposed to be available by January 31, while comments from the public on complaint procedures are to be submitted to the Public Service Commission no later than February 9.

Currier stated that his firm began drafting comments on the complaint procedure for submission to the Michigan Public Service Commission on behalf of the BACB and their other cable clients. A draft response including these comments has been distributed members. The position taken is that the uniform service agreements and the complaint procedures should be accomplished through a collaborative process.

Currier noted that the Comment letter points out that there is a conflict between Federal Law and State Law regarding establishing customer service requirements. Generally, Federal Law pre-empts State Law. The correspondence identifies the illogical aspects of the complaint procedure being handled by the State rather than at the local level. Currier indicated that the State Cable Act does not include funding or establishment of staff for the Michigan Public Service Commission to handle cable complaints. It may be illusory to think that citizens will be able to have their complaints addressed by the MPSC. The comment letter from the BACB will

recommend to the Michigan Public Service Commission to leave the complaint procedure at the local level where it is best handled under local regulations and Federal law.

Currier requested additional comments from Board members in order to compile and finalize all comments in a letter to be signed by the Board chairperson and filed with the Michigan Public Service Commission before the next Cable Board meeting.

Currier reiterated that his firm plans to hold a workshop on the State Cable Legislation when pertinent information becomes available including the Uniform Franchise Agreement and FCC Orders. He knows of no cable provider at this time that has attempted to terminate its franchise agreement and request a new one under with the provisions of the new Act. Currier made the point that the BACB has the authority to deal with all complaints dealt with today because they pre-date the end of the year.

Currier advised the Board that, as the effects of this State Law develop, the member communities may be faced with a decision relative to entering the fray of litigation. Issues posed by the State Act bring into question both the State Constitution relative to requiring a local franchise to use the rights-of-way versus a state franchise. In addition, it brings into play the Federal Constitution, which has a specific prohibition about states enacting any law that impairs contracts. The communities have a franchise agreement with Comcast that continues for seven more years. There are some very significant constitutional issues on a Federal and State level. Currier's firm will keep the municipal attorneys and managers advised of any litigation. Questions from board members were addressed by Currier.

Motion by Pfeifer, second by Ettenson, that Chairman Robert Borgon be authorized to sign the correspondence filing Comments of the Birmingham Area Cable Board to the Michigan Public Service Commission.

Motion passed unanimously.

In response to an inquiry, Currier recommended that the individual communities take similar action. He has forwarded his draft comments to the managers and attorneys of the consortium communities for their review and comment.

NEW BUSINESS

None

BOARD COMMENTS

None

PUBLIC COMMENTS

None

The meeting was adjourned at 8:47 a.m.