

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

Absent: Kott - Birmingham

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

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. He called for a moment of silence in memory of the victims of the shooting at Virginia Tech University on Monday.

Borgon welcomed Jeffrey Heldt, newly appointed member of the Cable Board representing Birmingham.

#### **APPROVE MINUTES OF MARCH 21, 2007 CABLE BOARD MEETING**

Motion by Woodard, second by Mancini, that the minutes of a regular Cable Board meeting held on March 21, 2007 be approved as submitted.

Motion passed.

#### **PUBLIC COMMENTS**

Dick Maxwell of 18701 Walmer Lane in Beverly Hills described a recent incident involving his high speed Internet service and the failure of Comcast to bury a cable line on his property in a timely manner.

Borgon remarked that the Cable Board does not have authority over Internet service; however, the Comcast representative to the Board has followed through with Internet complaints received by this body

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

Hagaman reported that there were 11 new complaints received since the March meeting, some of which have been resolved by Comcast. Her report includes a breakdown by the subject of the complaint.

Hagaman pointed out several recurring issues that came up in the last month. A number of seniors have expressed their dissatisfaction not only about the rate increase but that Comcast removed the Game Show Network from the basic line-up and placed it on the digital tier. There were also complaints regarding a perceived deterioration in the fiber network in two neighborhoods. She suggested that Comcast investigate these complaints thoroughly.

Hagaman indicated that she received the Comcast quarterly call center report after the last meeting. She provided the Board with the third quarter financial report, which establishes that revenue and expenditures are within the anticipated budgeted amounts at this time. The Board continues to be in good financial shape.

The Cable Board passed a motion at its March meeting authorizing the expenditure of not more than \$900 for BACB web site improvements including software and labor. Hagaman reported that she received a quote from the web site designer in the amount of \$700, which was higher than anticipated. She asked the Board to consider amending the motion to authorize an amount not to exceed \$1,200 for web site improvements.

There was discussion on whether to proceed with the current vendor or seek quotes. Ettenson related his experience with the current provider, who has proved to be competitive and responsive. The Board was in agreement to use the services of the individual who created the web site.

Motion by Ettenson, second by Woodard, to approve additional funds not to exceed \$1,200 to proceed with updating the Birmingham Area Cable Board web site.

Motion passed unanimously.

Hagaman stated that the grant request from Birmingham Public Schools is on today's meeting agenda for the reason that the 2007/08 budget figures are available for Board review.

Borgon expressed the view that Comcast appears to be alienating basic cable subscribers by removing channels from the analog tier without replacing them with other channels. He made reference to the recent removal of the Game Show channel from basic cable. He questioned Comcast's rationale for this change.

Beller responded that Comcast does value its customers and takes their input seriously. There are a variety of factors that go into Comcast programming decisions. She referred to the transition to digital programming and the features available on the digital tier. Comcast continues to make difficult decisions on service tiers during this transition phase. Beller stated that a majority of Comcast customers are subscribing to cable television, Internet, and phone service and receiving a cost savings by bundling services.

#### **PROPOSED BUDGET FY 2007/2008**

Hagaman stated that the fiscal year 2007/08 budget is based on the assumption that the Board will continue receiving 5% franchise fees and 3% PEG fees. It is believed that these fees will be sustained if and when AT&T comes into the area.

Hagaman reviewed the budget focusing on changes from the previous year's budget. Interest rates are anticipated to be lower next year. The proposed PEG Operations budget has been divided between the cost of contracted services for production of public and government access channels and the cost of programming.

The budget includes \$225,000 for a new production van, which should cover the cost of the van, conversion for production use, and labor costs for the transfer and set up of existing equipment. The budget assumes continuation of storage costs for the van.

Comments and questions on the budget from Board members were addressed by Hagaman. It was the consensus of the Board to increase the legal fees line item from \$35,000 to \$50,000 to reflect increased attorney involvement with both federal and state cable legislation and the arrival of AT&T in the market.

Attorney Tim Currier stated that all four communities have received applications from AT&T for a Uniform Franchise Agreement. He noted that the Federal Communications Commission Order published in March does not apply to states that have a state-wide franchise or a county-wide franchise in place. The order does not apply to the State of Michigan. The consortium is receiving all the pleadings being filed because the FCC order has been challenged in federal appeals courts. It will be an expensive fight that may go to the Supreme Court. Currier's recommendation is that the Board monitor this activity but not get into the fray until it applies to this consortium.

There is a flurry of activity with AT&T as their franchise applications have been received. Currier stated that his firm is trying to split the common legal costs that are incurred among all communities to ease the burden of this expense on municipalities. There was a meeting of area legal counsel in an attempt to arrive at a common strategy for dealing with requests for Uniform Franchise Agreements. Developments occurred quickly; but the activity will die down after the next 30 days. There will be other AT&T issues to deal with including hooking up AT&T technology to the local PEG site. Currier commented that the legal expenses will depend in part on the attitude of the providers and how cooperative they are. Currier stated that the attorneys have also been spending time on the PEG provider issue.

Mancini commented that he would like the budget to reflect the amount transferred from the reserves to balance the budget. Hagaman will revise the budget to show a transfer of \$157,000 from the reserve fund to balance the budget.

Motion by Ettenson, second by Gallasch, to approve the 2007/08 Birmingham Area Cable Board Budget with the changes discussed at today's meeting and forward the document to the member municipalities.

Motion passed unanimously.

A Board member inquired about the absence of the subscriber statistics report in the meeting packet. Beller responded that she will talk to the Board after the meeting about whether Comcast will provide this report going forward.

## **COMMITTEE REPORTS**

### **Cable Action Committee**

McLain reported that Ken Kott joined the Cable Action Committee at its March 28 meeting; she welcomed any other Board members to join the group at its next meeting scheduled for April 25.

McLain mentioned that the government mandated deadline for television stations to stop transmitting analog signals and switch to digital broadcasts is February 17, 2009. This is designed to free up the analog spectrum for wireless broadband and public safety uses. The Board will provide updates on the conversion process.

McLain addressed a problem that has been reported by subscribers who have difficulty with figuring out their DVR ready remotes. She asked Comcast to assist customers with learning how to work their remotes when they switch to the digital tier.

McLain mentioned that the Call Center Statistics quarterly report dated March 21, 2007 was received in a different format. It was questioned whether this call report fulfills the requirement of the Franchise Agreement in terms of reporting figures for this area.

Beller remarked that she would speak with members off line regarding the specifics of this confidential report. She noted that the content is similar to previous reports, and that Comcast did meet its required FCC statistics.

Currier stated that the Board has agreed to accept the report on a confidential basis so that it is not subject to the Freedom of Information Act. There are questions that need to be answered by the Comcast representative because the report as it is constituted does not reflect whether Comcast has met the FCC requirements for this particular area. The report appears to include a blend of a much larger area and the number of calls answered in the required time could be less than when averaged on a larger basis.

McLain concluded that subscribers will be reading more about AT&T and competition coming into the area in their local newspapers. She asked people to be aware that there is a lot of construction in neighborhoods on large boxes. Questions on what service is available in your area can be addressed by calling the 1-800 numbers.

#### **PUBLIC ACCESS AND GOVERNMENT PROGRAMMING CONTRACT**

Mancini reported that the priority of the PEG Committee last month was to evaluate and work towards finalizing a contract with a supplier for cable access management services. Chairman Borgon, Executive Director Hagaman and he met on several occasions to discuss alternatives with potential vendors. Four options were identified:

1. Continue using BCTV
2. Seek a new arrangement with Community Media Network (CMN)
3. Seek a new arrangement using the Birmingham Public Schools
4. Establish a BACB owned operation with our own studio, equipment and personnel

Of these three alternatives, the last was rejected as not viable at this time based on these factors: 1) the uncertainty of the legislative implications; 2) the uncertainty of the PEG budget and BACB budget to fund such an enterprise, and 3) the short time frame to execute a professional operation before the Board's contract extension with BCTV expires on May 31, 2007.

Mancini explained that the Birmingham Public Schools arrangement was an intriguing opportunity because of the studio space, broadcast and editing equipment, etc. Lisa Martinico

was asked to provide the PEG committee with specifics. Mancini listed the numerous unknown costs and undetermined potential pitfalls. The BPS alternative was rejected as a viable option based upon the process and potential costs.

Mancini described the process of evaluating elements involved in selection of either BCTV or CMN as a PEG access provider. Items considered were base costs, scope of programming within those costs, playback and new production opportunities, contractual term, open issues that needed resolution before a contract was executed, head-end costs, and service. The Board was provided with a chart comparing elements of PEG alternatives.

Mancini outlined PEG committee members' discussion with CMN. The company revised its previous proposal upward to \$134,500 to include all M15 Programming, BACB producer programs, new shows that BACB might initiate plus some programs CMN produces that would be of interest to our constituency. In addition to the proposed cost would be a head-end connection cost of a minimum of \$50,000. This would increase the cost of doing business in year one to \$184,500. Mancini commented on open issues with the CMN proposal. He noted that, from a service standpoint, CMN maintains a small staff and therefore provides minimal staff involvement to supervise producers.

Mancini and Borgon met with Leslie Helwig of BCTV and Ben Crane, Chairman of the Bloomfield Township Cable Access Board early this month to discuss a re-negotiation of BCTV's initial proposal of \$175,000. Specifics were discussed and agreed upon at a subsequent meeting with Leslie Helwig. Borgon, Hagaman and Mancini met to discuss the alternatives and arrive at a consensus recommendation for the Board's consideration. A decision was made that a modification of the BCTV proposal would be in the best interests of the residents:

1. A base cost of \$110,373 to cover M15 and mutual programming
2. Funding of playback and programming on PA 18 and BCTV mutually beneficial productions of \$43,820 for a total contractual commitment of \$154,193.
3. We would explore the possibility of additional new productions at a funding level to be determined.
4. A one-year commitment to determine how the new arrangement is working and to monitor hours/activities to ensure the best possible result.

It was the consensus recommendation of Borgon, Hagaman and Mancini to enter into a one year contract with BCTV at an annual cost of \$154,193. Consideration should be given to additional new programming at a budget level to be determined and contingent on future revenue projections. The PEG Committee would conduct quarterly reviews with BCTV.

Mancini related that he reviewed all of the elements with Attorney Tim Currier, who concurred with the recommendation. It was noted that CMN and BCTV have representatives present to answer any questions from the Board.

Charles Langton, CMN board member, stated that he has been involved with cable television for about 20 years. He provided background and facts about the operation of Community Media Network. If the Board's decision is to contract with BCTV, Langton affirmed that CMN will assist this consortium in any way it can. He addressed questions from Board members.

Langton commented on the amount of programming available to CMN. The PEG Committee may be interested in meeting with CMN to discuss programming ideas or use of CMN programs.

Martinico related that she provided information but did not formally respond to the RFP for PEG access programming services. She commented on the School District's liability insurance and restrictions that are imposed on anyone who leases space from the schools. It was noted that school activities take precedence over any other type of activities.

On behalf of the Bloomfield Community Television staff and Bloomfield Township Cable Access Board, Leslie Helwig stated that they have been pleased to provide services to the consortium communities over the past six years and wishes to continue. BCTV has established good relationships and has worked closely over the years with individual producers in the communities and with organizations that would like to produce programs. BCTV spends a lot of time and money making sure that its studio has state-of-the-art equipment for access programming. Helwig believes that this is a great use of shared community resources.

Motion by Mancini, second by Woodard, that the Birmingham Area Cable Board initiate a contract for a period of one year with Bloomfield Community Television for the purpose of broadcasting M15 and PA18 activities at a total cost of \$154,193, consisting of \$110,373 for base costs and \$43,823 for playback and programming.

Questions from Board members were addressed by Mancini. There was agreement that the contract should reflect a separate figure for playback and programming. Board members questioned whether the contract should include language that would provide the option to renew by mutual agreement of both parties. The Board would need input from BCTV on adding renewal language in the contract.

Mancini asked members to attend a short PEG meeting after the Board meeting today to discuss finalizing the contract.

Roll Call Vote:  
Motion passed (10 – 0).

#### **BOARD RECOGNITION OF BRIAN JONES**

Borgon read a resolution of appreciation recognizing Brian Jones for his dedication and extraordinary accomplishments while serving as City of Birmingham representative on the Birmingham Area Cable Board from November of 2004 to March of 2007. The proclamation will be signed by Board members and presented to Brian Jones.

Motion by McLain, second by Abbott, to adopt the Resolution of Appreciation recognizing the service of Brian Jones representing the City of Birmingham on the Birmingham Area Cable Board.

Roll Call Vote:  
Motion passed (10 – 0).

**BIRMINGHAM PUBLIC SCHOOLS GRANT REQUEST**

Motion by Woodard, second by Heyman, to take the motion approving a Birmingham Public Schools Grant Request off the table for discussion.

Motion passed.

The motion before the Board reads as follows:

Motion by Ettenson, second by McLain, that, subject to an opinion from legal counsel on spending Cable Board funds outside of the boundaries of the consortium, the Birmingham Area Cable Board approve a grant request from Birmingham Public Schools in the amount of \$133,000 to purchase equipment for schools in the district that would facilitate student cable production work.

A revised Grant Request from Birmingham Public Schools dated 3/21/2007 reduced the grant request to benefit only those schools that exist within the political boundaries of the four consortium communities. The total revised grant request is in the amount of \$193,903.

Borgon stated that the Cable Board has \$40,000 allocated in the current year's budget for grant requests. There will be additional funds in the amount of \$150,000 budgeted in the 2007/08 budget for grants. He suggested taking action at this time to approve a grant request for BPS in the amount of \$40,000 and allow the School District the opportunity to come back before the Board in the next fiscal year to request additional grant money.

Roll Call Vote:  
Motion fails (10 – 0).

Motion by Heyman, second by Mancini, to approve a grant for Birmingham Public Schools in the amount of \$40,000 to purchase equipment for schools in the district that would facilitate student cable production work.

Roll Call Vote:  
Motion passed (10 – 0).

**AT&T FRANCHISE AGREEMENT**

Attorney Tim Currier reported that AT&T has sent applications under the Uniform Franchise Agreement Act of the State of Michigan to a number of communities in southeast Michigan. The four member communities of the Birmingham Area Cable Board are a part of their initial rollout of this project. Between March 23 and March 28 several communities in the area including Franklin, Beverly Hills, Bingham Farms and Birmingham, Troy, Royal Oak, West Bloomfield, southwest Oakland County, Wixom, Rochester Hills and Rochester all received applications from AT&T.

Currier stated that his firm held a workshop in anticipation of the Uniform Franchise Agreement and FCC orders. Once the applications were mailed, attorneys from the affected communities met together with Cable Board representatives to discuss a response to AT&T with respect to the issues presented in their application.

Applications were made through a Uniform Franchise Agreement form that was prepared by the Michigan Public Service Commission and circulated for that purpose. There is a problem in that the form does not conform to the statute. The statute says that franchise agreements shall state that the provider will comply with all valid and enforceable local regulations and will comply with FCC requirements. This has now been interpreted to suggest that the provider will only comply with all valid and enforceable federal and state statutes. Currier affirmed that the consortium communities have had a Consumer Protection Ordinance in effect for in excess of 25 years, which has been complied with by Comcast and its predecessors. Therefore, there will be a sticking point in the future about that compliance.

Currier related that the municipalities had 15 business days to determine whether the AT&T application is complete. An ad hoc group of attorneys met to determine a common response. If communities did not make a decision within that time frame, the application would automatically be deemed complete, and the 30 day time period for acting on the Agreement would start from the date of submittal. Governing body action would be in terms of a Resolution and not an ordinance.

Other issues that the filings presented were outlined by Currier. All of the communities determined that the application was not complete in terms of meeting statutory criteria for the following reasons: 1) the boundary map is not complete as to the service area; 2) the fees have not been delineated by the proposed provider; and 3) the PEG fees have not been included by the provider. All of the member communities notified AT&T on a timely basis that the applications received were incomplete.

Most of the communities received a new submittal from AT&T on April 16 with the numbers filled in and with new maps that do provide the boundary streets and borders of the communities and identify the areas to be serviced. AT&T has filled in the Franchise fee at 5% and the PEG fee at 3%. Currier noted that the consortium communities' agreement with Comcast extends for another seven years. The AT&T application is for a 10 year agreement. AT&T has agreed to pay a 5% franchise fee for 10 years and a 3% PEG fee until Comcast's franchise expires at which time AT&T will pay 2% PEG fees during that three year gap.

The revised application received from AT&T restarts the 15 business days for communities to determine whether the applications are complete. Determining that the application is complete will take the request to the next step of deciding whether the community wishes to accept the Agreement.

Currier stated that there was some discussion on how the communities should accept the agreement with AT&T. The consensus among the attorney working group was to recommend that the communities reserve the right to challenge the statute and challenge the form where it does not comply with the statute. The communities should also reserve the right to take advantage of any future decisions rendered by federal or state court or future orders of the FCC.

Currier indicated that discussion has also begun with AT&T about the location of the obtrusive VRAD boxes. There is an issue in all of the communities about the installation of these boxes. AT&T has been asked to identify where the boxes will be located so municipal engineers and community planning departments can work with AT&T now and on an ongoing basis regarding

location, screening, and access. AT&T expressed reluctance to divulge a global plan and said they would provide information on a permit basis as they are about to start construction. The company is attempting to hold back information so it does not become available to competition.

Currier summarized that some of the communities will be reviewing the applications that were received on April 16 to determine if they are complete and will be considering whether to approve the Agreement with AT&T on upcoming council or commission meeting agendas. Questions and comments from Board members were addressed by Currier.

The relevance of the Cable Board in terms of the customer complaint process was questioned. Currier responded that the Michigan Public Service Commission has not yet determined how it is going to handle the complaint process. According to statute, they have to determine the process by which to resolve subscriber complaints. The consortium has taken the position that complaints should be handled at the local level. Currier added that the communities have local consumer protection ordinances that are presumed to be valid and enforceable.

Borgon mentioned that the Cable Board is responsible for the municipalities' legal fees for negotiations with AT&T.

## **COMCAST RELATED TOPICS**

### **Subscriber Complaints**

Subscriber complaints were addressed previously.

### **Comcast Update**

Ettenson asked Beller to invite the new Comcast Vice-President of Government Affairs to the next Cable Board meeting. Beller responded that she will take this under advisement.

### **Other Issues**

None

## **MLTV 15/PA18 REPORT**

Stephen Rota from Bloomfield Community Television reported on programming taped for Municipal Channel 15 and PA Channel 18 during the last month and mentioned upcoming programs of interest (information included in the BCTV monthly report for March 22-April 18, 2007).

A camera volunteer workshop is scheduled for May 1 from 10 am to noon and from 6:30 pm to 8:30 pm. Rota remarked that BCTV produced a public service announcement to inform residents that Southfield Township will be offering free document shredding on Saturday, May 5 between 10 am and noon in its municipal parking lot.

Rota commented that he is looking forward to continuing the partnership with the Birmingham Area Cable Board.

## **OLD BUSINESS**

None

**NEW BUSINESS**

Pfeifer noted that seniors from the Birmingham Area Seniors Coordinating Council are requesting that exercise programs be broadcast on a regular basis. Borgon added that the PEG Committee will be getting involved in this programming issue.

**BOARD COMMENTS**

Mancini reminded members of a brief PEG Committee meeting following today's Board meeting.

**PUBLIC COMMENTS**

None

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