

Present: Heldt, Mancini, Mathers - Birmingham
Verdi-Hus, Woodard – Beverly Hills
Ettenson – Bingham Farms
Gallasch – Franklin

Absent: Abbott, Kott, McLain - Birmingham
Borgon, Heyman – Beverly Hills

Also Present: Hagaman - Executive Director
Currier - Attorney for Cable Board
Martinico - Director of Technology, Birmingham Schools
Rota - Bloomfield Community Television representative
Johnson – AT&T representative

Vice-Chairperson Ettenson called the meeting to order at 7:50 a.m. in the Village of Beverly Hills municipal building at 18500 W. Thirteen Mile Road.

APPROVE MINUTES

Motion by Woodard, second by Mancini, that the minutes of a Birmingham Area Cable Board meeting held on August 15, 2007 be approved as submitted.

Motion passed.

PUBLIC COMMENTS

None

EXECUTIVE DIRECTOR'S REPORT

Hagaman stated that Beverly Hills administration has requested that the Board postpone discussion on a grant request to fund web streaming of Village Council meetings.

Hagaman related that Comcast has not named a replacement for Louise Beller, and a representative from Comcast is not present at today's meeting. Hagaman is consulting with her usual contacts at Comcast in the interim. There were seven new complaints received since the last meeting.

Completion of the Cable Board audit has been delayed. The new State Uniform Video Franchising Act allows cable providers 45 days to submit franchise fee payments to local municipalities whereas the local franchise agreement required 30 days. Due to this extension, final revenue numbers were not available to conclude the Board's Financial Audit in time for a September presentation. The final year end financial report and the first quarter 2007-08 financial report will be presented in October.

Board members are in receipt of the 2006-07 Cable Board Annual Report. Hagaman asked members to review the draft and recommend any changes in anticipation of adopting the report at the October meeting.

Hagaman reported that a lightning storm in September caused damage to equipment in the Beverly Hills Council chamber. Damage to the audio board and camera equipment was not detected until the night of the regular Council meeting of September 4. BCTV will provide an update later in the meeting.

BEVERLY HILLS GRANT REQUEST

Ettenson related that Beverly Hills has requested that this item be removed from Board consideration at this time because further consideration of a grant request for web streaming Council meetings is premature. Woodard explained that there was some miscommunication that led this item to be placed on the Cable Board agenda before Beverly Hills was ready to proceed with a comprehensive grant request. Beverly Hills is looking into another source of funding for web streaming Council meetings and requires more time to prepare its grant proposal.

COMMITTEE REPORTS

Cable Action Committee

Hagaman presented a report prepared by Cable Action Committee chairperson Elaine McLain. The Cable Action Committee met last month and followed up on details from the last Cable Board meeting. There was discussion of appropriate timing to proceed with the Farmers Market initiative. A letter will be sent to the Farmers Market Board clarifying the BACB mission. In the meantime, the Committee is working on an informational brochure for the Board's consideration.

Comcast quarterly phone statistics are required pursuant to the Franchise Agreement. There will be further discussion on positions being taken by Comcast on this and other matters.

McLain indicated in her report that she attempted repeatedly to reach Comcast by phone and was on hold for extended periods at all hours of the day and night. McLain attended the Comcast facility tour and thanked Comcast representatives for coordinating the visit.

Once the Comcast representative to the Cable Board is named, it is the suggestion of the Cable Action Committee to schedule a meeting to discuss the notice of liquidated damages delivered to Comcast by the Board last month.

PEG Committee

Mancini reported that the goals of a recent PEG Committee meeting was to discuss a policy and guideline document for municipal and public access programming, identify opportunities and start-up dates for the new Board-approved equipment, and begin outlining the steps toward a negotiating strategy for the new van.

Mancini highlighted the content of the policies and guidelines document. The PEG Committee and Board members will continue the process of finalizing the details with initiation of the process anticipated on January 1, 2008.

New broadcast equipment is expected to be delivered before the end of the month. Training will begin immediately, and broadcast initiatives on M15 and PA18 will begin after the team is assured that all start-up issues are addressed.

Mancini reported that Ken Kott has been overseeing the purchase of a new production van. Bids will be solicited soon.

Mancini reported that a scheduling problem occurring this month with an M15 concert broadcast and municipal meeting and was immediately corrected by BCTV staff. An audio level decline occurred for a few days when Comcast re-calibrated the signals, which negatively affected output. This was discussed with BCTV, and a process will be put in place to avoid lapses in audio and/or video deviations in the future. Mancini outlined a malfunction in the taping of the September 4 Beverly Hills Council meeting and BCTV's trouble shooting efforts. The Beverly Hills municipal building had been struck by lightening, which damaged some of the video and audio equipment in the control room.

COMCAST RELATED TOPICS

Subscriber Complaints

There was no Comcast representative present at today's meeting. Ettenson related that a phone call to Juan Otero, Vice-President of Governmental Affairs, was not returned. He asked Executive Director Hagaman to contact Comcast CEO Brian Roberts about the lack of local representation on the Cable Board.

Hagaman summarized specific complaints received within the last month related to extended hold times, customer service, cost of service, problems with technicians in Williamsburg condominiums, commercial account issues, and a request for senior pricing.

Ettenson reviewed that the Cable Board notified Comcast that it is in default of specific sections of the Cable Ordinance. The cable provider can be placed on notice if complaints continue, and the Board may choose to assess liquidated damages. Comcast has an opportunity to come forth and make a case as to why it should not be assessed. A response has been received from Comcast. Ettenson asked Attorney Tim Currier to bring the Board up to date on this matter.

Tim Currier outlined a letter dated August 30, 2007 from Comcast to the Board Chairperson. Comcast is taking the position that the new Michigan statute does not permit this Board to take enforcement action because the provisions of our local enforcement regulations are inconsistent with the State Uniform Video Franchising Act. Currier does not concur with Comcast's position. The Uniform Video Franchising Act allows a cable provider to abide by the terms and obligations accepted in the franchise agreement. FCC standards adopted by the State Act indicate that a minimum standard must be maintained; it does not say those standards cannot be exceeded.

Currier stated that there will be a meeting this afternoon between representatives of Comcast, members of the Birmingham Area Cable Board and administrative staff of its consortium communities, Intergovernmental Cable Communications Authority (ICCA) members, and people representing their respective administrations. A total of 15 communities will be represented at a meeting with Comcast to discuss this issue as well as Comcast's position on changing its schedule from paying franchise fees within 30 days as required by the franchise agreement to within 45 days, as allowed by the State Act. Comcast claims that paying the franchise fees within 30 days is inconsistent with paying it within 45 days.

Another topic of discussion at this meeting will be the notice received from Comcast that it will be discontinuing complimentary municipal cable television service to all but one police station and one fire department in each community. Comcast is taking the position that providing multiple cable drops to municipalities is incompatible with the State Video Uniform Franchising Act. This will particularly affect the City of Birmingham as well as cities in the ICCA consortium that have multiple police and fire locations such as Troy, Royal Oak and Rochester Hills. Some communities rely on this complimentary cable drop for its Public Services operations. Those present at the meeting will attempt to persuade Comcast that these complimentary cable drops are essential for the safety of our communities. Currier remarked that the Board recognizes that, under the new State Video Uniform Franchising Act, Comcast has the authority to terminate our franchise and go to a uniform agreement.

COMCAST UPDATES/OTHER ISSUES

None

AT&T RELATED TOPICS

Carmen Johnson from AT&T updated the Board on the status of the AT&T PEG product and the rollout of the AT&T product in the consortium communities. Johnson related that the PEG operation is up and running in Foster City, California. Locally, Linda Badamo from Clinton Township, will be broadcasting their product shortly. Johnson stated that she would invite Cable Board members to a private premier showing of the Clinton Township PEG channel programming.

Johnson clarified that AT&T does not provide any of the equipment utilized for PEG programming. Board members can contact Linda Badamo for pricing information on the products purchased by Clinton Township. The T-1 line required for the service is a class of service called CBR (constant bit rate). AT&T technical specialist Roger Blake can assist communities with equipment information. Johnson will provide the Board with contact information.

With regard to rollout of the AT&T U-verse product in the communities, Bingham Farms and Beverly Hills are half-way completed, Birmingham is two-thirds completed, and Franklin is just about complete. The anticipated time frame for the entire rollout to be complete is 2009. People can access the AT&T web site (www.uverse.att.com) and insert their phone number or address to determine whether access to the product is available at their residence. People also have the option of being placed on a list to be notified when the service becomes available to them.

At the inquiry of Gallasch, Johnson confirmed that AT&T is in the process of providing landscaping around VRAD boxes in Franklin as promised.

MLTV 15/PA 18 REPORT

Steve Rota from Bloomfield Community Television reported on programming taped for Municipal Channel 15 and PA Channel 18 during the last month and noted upcoming programs of interest (information included in the BCTV monthly report for August 16 – September 19, 2007).

Ken Kott met with Steve Rota and Zack Florance to discuss plans for the BACB production van.

The new broadcast equipment approved by the Board has been purchased. The camera equipment, accessories, and the server arrived yesterday. Delivery of the bulletin board is expected at the end of September.

Two volunteer workshops were held on Tuesday, September 11 and were attended by nine people.

The Program Development Committee met on Friday, September 14 to consider four program proposals. One was from a Franklin resident who would like to shoot and edit a Bible study series. Bloomfield residents will be developing programs about local area businesses, movie reviews, and technology topics. Staff will be assigned to work with each new producer individually to bring these four new series to the BCTV 15 and PA 18 channel lineups. Questions from board members were addressed by Rota.

OLD BUSINESS

Currier updated the Board on recent legal issues. There is a proposed change in the Michigan Uniform Franchise Act regarding 2% PEG payments, but it will not affect the Birmingham Area Cable Board. Certain communities were trying to get a 2% payment based on cash grants; a calculation issue was disputed by AT&T and others. The statutory changes were intended to clarify the issue.

Currier stated that the Birmingham Area Cable Board has always received a straight 3% PEG payment. There is a meeting occurring in Lansing tomorrow, September 20, which will be attended by Currier or another representative from his firm.

The Michigan Public Service Commission (MPSC) approved a revised version of the telecommunications service quality rules, improving consumer protections and safeguarding the interests of customers. Highlights of the rules include:

- Requiring telecommunications providers to furnish each customer with a clear and simple explanation of the terms and conditions of the services purchased by the customer, including, but not limited to, a statement of all fees, charges, and taxes that will be included in the customer's monthly bill.
- Requiring providers to maintain adequate personnel to answer customer calls within a monthly average of three minutes, with the assistance of a live person.
- Providing a customer bill credit when a service outage is not cleared within 36 hours from the time the outage is reported or found by the provider. The credit will be equal to 1/30 of the customer's monthly charge for basic local exchange service for each day of the outage until service is restored.
- Giving the customer a credit of \$15 when the provider misses a repair appointment time commitment.
- Requiring providers to release the loop facilities and telephone number serving its customer within a monthly average of four business days after a request is made.
- Giving customers at least 24 hours notice for a planned service interruption, unless circumstances make notification not practicable.

Currier reported on an Eleventh Circuit Court ruling in Georgia striking down an Arbitration Clause containing a Class-Action Waiver that Comcast had attempted to impose on its customers. The United States Court of Appeals for the Eleventh Circuit became the latest court to hold that an arbitration clause that contains a waiver of a consumer's right to bring a class action may be unconscionable if its application would effectively prevent consumers from exercising their rights. The Court held that, permitting Comcast to avoid litigation through the class-action waiver, would "allow Comcast to engage in unchecked market behavior that may be unlawful. Corporations should not be permitted to use class action waivers as a means to exculpate themselves from liability for small-value claims."

NEW BUSINESS

Hagaman asked Carmen Johnson whether AT&T will send representatives to the NATOA Conference next month and if they will have a PEG programming demonstration available for broadcast. Johnson will look into this.

BOARD COMMENTS

Board member Gallasch stated that this will be his last Cable Board meeting due to his recent appointment as Franklin Council President. He has enjoyed his association with Cable Board members and is encouraged by the progress and activity of the Board.

Ettenson congratulated Gallasch on his election as president of Franklin Village Council and said that it has been a pleasure serving with him on the Cable Board.

PUBLIC COMMENTS

Hildreth Buterbaugh from Beverly Hills commented on Comcast's pricing differences between different communities. He related that a senior discount is available to Comcast customers in Royal Oak. Ettenson responded that the Board is aware of price variations among various communities in terms of Comcast pricing and channel lineups.

Currier added that availability of senior discounts goes back to the original franchise agreements of communities. The previous cable provider prior to Comcast in this consortium did not offer senior discounts as part of the franchise agreement. The ICCA consortium was able to negotiate a senior discount in its initial franchise agreement, which Comcast must honor until that franchise expires. Currier emphasized that the BACB has advocated senior discounts on numerous occasions for its member communities. Comcast's response has been that they want to discontinue senior discounts in all areas.

The meeting was adjourned at 8:49 a.m.