

Present: Abbott, Armitage, Decker, Heldt - Birmingham
Borgon, Heyman, Verdi-Hus, Woodard – Beverly Hills

Absent: Mathers, McLain – Birmingham
Ettenson – Bingham Farms
Jahnke – Franklin

Also Present: Hagaman - Executive Director
Currier and Salhaney - Attorneys for Cable Board
Florance - Bloomfield Community Television representative
Gardner – Comcast representative
Valentine - Birmingham staff liaison
Pfeifer – Beverly Hills Council 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.

APPROVE MINUTES

Motion by Woodard, second by Heldt, that the minutes of a Birmingham Area Cable Board meeting held on January 16, 2008 be approved as submitted.

Motion passed.

PUBLIC COMMENTS

Hildreth Buterbaugh of Beverly Hills asked a question about Comcast DVR equipment, which was addressed by John Gardner. Buterbaugh mentioned that the March issue of Consumers Report contains excellent articles on digital and cable services.

CERTIFICATE OF APPRECIATION

Borgon stated that, during his year and a half on the Cable Board, Mancini worked diligently on improving PEG programming. His dedication and energy was an inspiration to the Board. Borgon read a resolution in recognition of the distinguished service and extraordinary accomplishments of Robert Mancini while serving as City of Birmingham Representative on the Birmingham Area Cable Board from April 2006 through December, 2007.

Motion by Heldt, second by Abbott, to adopt a Resolution honoring Robert Mancini for his service on the Birmingham Area Cable Board as a representative from the City of Birmingham.

Roll Call Vote:
Motion passed unanimously.

EXECUTIVE DIRECTOR'S REPORT

Hagaman related that the Comcast plan to move all local public access channels in Michigan to 900-level channels is on hold due to a Federal court restraining order. There have been no

hearings scheduled in Federal Court relative to the temporary restraining order. Hearings are now being held in Washington on PEG issues.

In August of 2007, the Cable Board sent a letter to Comcast placing the company on notice that the BACB considered them to be in breach of the Franchise Agreement and Cable Ordinance. The letter called for immediate corrective action and a written response from Comcast as to the measures it would take to rectify defaults. The Cable Board has the ability to levy remedies pursuant to the Franchise Agreement including assessing liquidated damages. The Board has moved forward to work with its attorneys on assessing liquidated damages for recurring subscriber problems. A letter was sent to John Gardner at Comcast advising him that the Board would be discussing this topic at the February meeting.

Hagaman reported that there were eight new complaints submitted to Comcast. AT&T continues to roll out its U-verse product to Bingham Farms residents. There continue to be questions from Comcast subscribers as to the availability of competition. They are being informed that satellite TV is considered competition as well as the AT&T U-verse product.

The Michigan Public Service Commission has completed its survey and submitted an annual report to the Governor. The Board is in receipt of a copy of that report.

The Board has received three quotes in response to the Request for Proposals for the production van. This will be an agenda item under the PEG Committee report.

Hagaman provided Board members with a second quarter Financial Report. Due to Comcast's decision to pay fees on a 45 day schedule for submitting quarterly PEG and Franchise Fee payments to the municipalities, revenue for the second quarter has not yet been received by Beverly Hills. A revised quarterly report will be forthcoming.

COMMITTEE REPORTS

Cable Action Committee

Hagaman read a Cable Action Committee report submitted by Elaine McLain in her absence. At their last meeting, the Committee discussed the notification of Comcast as to defaults and liquidated damages. Mike Salhaney has assembled the complaints and calculated penalties. McLain supports moving forward with levying liquidated damages.

McLain's report referred to recent Wall Street Journal articles covering pressure on Comcast CEO Brian Roberts by Capital Management regarding the stock's decline and management style.

In regard to AT&T U-verse, Newsradio 950 ran a national feed article on backup batteries for older VRAD boxes starting fires. It does not affect boxes in our communities. AT&T representative Carmen Johnson provided a corporate response and Attorney Tim Currier provided additional references.

McLain's report mentioned that her opinion letter regarding the AT&T U-verse "PEG Solution" was entered into the Congressional Record on January 28, 2008. The Energy and Commerce committee hearings were held by DC Chairman John Dingell and Edward Markey. McLain

continues to insist that AT&T and all other providers invest the same money, time, and technology in PEG as they do in expanding platforms and programs that make them money.

The next CAC meeting will be held next Wednesday, February 27 at 5:30 at the Baldwin Public Library.

PEG Committee

Heldt stated that the production van was a topic of discussion when he joined the Cable Board one year ago. Ken Kott along with BCTV staff worked on this project in terms of analyzing what was needed in the van from a technical and operational standpoint. A Request for Proposal was developed and a meeting was held with prospective vendors to discuss the goals of the BACB and receive input from vendors on the van. Bids were received and reviewed. This has been a comprehensive process to reach the point of making a recommendation to move forward on the purchase of a production van.

Hagaman led the Board through a PowerPoint presentation that outlined the need for a new production van and provided detailed information on the proposals received. While the costs for a new production van are substantial, the existing vehicle is in poor shape and the equipment is failing, which will require the Board to continue spending money on repair and maintenance.

The Board began the process of soliciting bids in early December with proposals due by January 21, 2008. Prior to the bidding process, there was much time spent on exploring the features and equipment that were needed in an updated van. A pre-bid meeting was held at BCTV on December 11 and was attended by three vendors. The bid specifications were discussed and vendors were asked to share their ideas about how the specifications might be improved.

The equipment included in the production van proposals will provide the Board with a vehicle that is totally self-sufficient. The equipment is versatile and could be used for studio set up and editing with minimal additional expenditures. Hagaman reviewed the major specifications for the mobile production van and the equipment specifications.

On January 21, three vendors submitted bids: Roscor, ProVideo, and Duncan Video. Members of the PEG Committee and BCTV met on January 29 to review the bids. A subsequent meeting to discuss the proposals was held on February 6, 2008.

The bid from ProVideo totaled \$835,962 with an alternate quote provided to purchase HDTV cameras at an additional cost of \$187,539. The bid did not meet the specifications detailed in the RFP. It is difficult to determine what is being proposed because there is no breakout of costs nor does the bid include the four cameras specified. The timetable is questionable.

Duncan Video presented three quotes. Two of the quotes were considered in the amounts of \$741,499 and \$718,962, with the major difference being the equipment level. The proposed equipment does not meet the minimum specifications identified in the RFP. It includes three rather than four cameras and the cameras are of a lower resolution than the other bids. Recent experience with this vendor raised concern with their ability to provide service and training in the proposed time frame.

Roscor Corp. provided two proposals: \$878,299 and \$920,383. The higher quote was eliminated because it contained equipment in excess of the requirements specified. The first bid met the specifications in the RFP. Their estimated delivery date is June 16, 2008. The Board's previous experience with this vendor has been very good, and Roscor has an office in Farmington Hills.

The Cable Board recognized that a new production van was needed and has been allocating funds over the years towards the purchase of a truck and equipment. The current Board budget (FY 2007/08) has allocated \$225,000 for purchase of a new van. The remainder of the funding is available in the Board's reserve fund. As of January 31, 2008, the Board had more than \$700,000 in a money market fund at Franklin Bank and approximately \$450,000 at MultiBank Securities. The Board will still have approximately \$300,000 of PEG funds remaining in the bank after this expenditure.

Hagaman explained that Federal Law requires that the Board may only use the 3 percent PEG fees received by each municipality for capital equipment for PEG productions and for grants to schools or municipalities for PEG enhancements. The money at Franklin Bank and MultiBank Securities may be used solely for the proposed capital expenditure of the truck and production equipment, but not for operating expenses. Hagaman noted that there is a possibility that the old van may have a resale value to smaller municipalities that would like the production van or the older equipment in it.

Currier commented that he has been asked if the Cable Board had the authority to issue bonds to fund this van. The Board does not have the authority to issue bonds. The only avenue the Board had to purchase a major piece of equipment was to save the money over a period of time. There is no alternate financing available.

Heldt stated that the PEG Committee recommends that the Board award the contract to supply the production van to Roscor Corp. Heldt indicated that he has discussed the bid price with Roscor and negotiated a cost of \$864,000.

Motion by Heldt, second by Woodard, to award the contract for a production van to Roscor Corp. at a cost not to exceed \$865,000.

Questions from Board members on the production van purchase included the following topics: warranty, insurance costs, garaging the vehicle, providing HDTV equipment, and equipment specifics. Florance will provide the Board with detailed warranty information on the specific pieces of equipment. Hagaman informed the Board that the truck and equipment will be insured. The Board is in discussions with BCTV about housing the production van in their facility.

Questions from Beverly Hills resident Hildreth Buterbaugh regarding who will drive the truck, maintenance of the truck, use of the existing van, and retaining the old van for a backup were answered by the Board.

Borgon read a memo from Elaine McLain to the Board supporting the purchase of the production van.

Roll Call Vote:
Motion passed unanimously.

COMCAST RELATED TOPICS

Liquidated Damages

Tim Currier stated that this Board has been concerned about the level of service performance by Comcast over the last several months. He has been requested to review the complaints received for the possibility of assessing liquidated damages. Historically, the Cable Board has looked at liquidated damages as a last resort after attempting to encourage a working relationship with the cable provider to resolve complaints and achieve customer satisfaction. The Board has encouraged crediting customer accounts as opposed to assessing liquidated damages. Currier was directed to analyze the complaints and Comcast was put on notice. Board members are in receipt of a packet of all the complaints, which have been sorted to indicate those that fall within the jurisdiction of the Cable Board through the Franchise Agreement.

Attorney Mike Salhaney remarked that the precedence for this action goes back to the Federal Cable Act, which requires that cable providers adhere to consumer protection standards. That body of law says that local franchising authorities also have the right to demand a certain minimum level of consumer protection standards of its cable providers. Those standards have been adopted into the Franchise Agreement and into the State Law that regulates cable television. It also is referenced in the Uniform Local Franchise Act. The Cable Board is supported by Federal law, Federal regulations, State Law and the Franchise Agreement.

The Franchise Agreement gives the Board five options when there are problems, one of which is to assess liquidated damages. Salhaney has assembled the complaints with the assistance of Executive Director Hagaman. The bottom line figure for liquidated damages for all four communities is \$13,700. The Franchise Agreement states that the Cable Board can assess a liquidated damage up to \$100 in an event of a default. Notice was provided to Comcast in August of 2007 and another letter went out to Comcast recently setting forth the uncured events of default and the specific provisions of the franchise agreement.

John Gardner, Government Affairs Manager for Comcast, stated that Legislation was passed in 2006 which created a uniform franchising environment. Comcast and other video providers are bound by FCC regulations. He maintained that any customer service or regulations in excess of that are no longer enforceable.

Comcast did respond to the Board's August 2007 letter in writing. It is Comcast's position that the Legislature created a new franchising environment, where new providers as well as old providers are held to the same standards. This means that the franchises that are in effect are modified to conform to the uniform video services franchising agreements that were created by the Michigan Public Service Commission. There are no provisions for liquidated damages in that document.

Gardner remarked that Comcast wishes to continue its good working relationship with this consortium. It is the intention of Comcast to provide the best possible customer service experience and resolve all complaints received in a timely manner. Comcast understands that

there are going to be opportunities for improvement. The company is willing to work with the Board, but Comcast does not believe that liquidated damages are appropriate. Gardner concluded that Comcast has not had an adequate opportunity to look at the spread sheets prepared by the Board.

Currier asked Gardner how Comcast intends to resolve the default issue. Gardner responded that Comcast would like to have an opportunity to review the material provided by the Board.

Currier stated that the Uniform Video Franchising Act passed a year ago incorporates by reference federal regulations that permit local franchising authorities to establish consumer protection standards provided they do not exceed standards set by federal regulations. He disagrees with Mr. Gardner's interpretation of the Uniform Franchising Act because this internal conflict has not yet been resolved by the courts.

Borgon suggested that, in the spirit of cooperation, the Cable Board allow Comcast an opportunity for further review of the documents submitted by this Board.

Motion by Borgon, second by Heldt, to table discussion of assessing Liquidated Damages to Comcast until the next meeting.

Roll Call Vote:

Motion passed unanimously.

Subscriber Complaints

Hagaman has addressed the complaints received last month with Comcast. There were no Board comments on specific complaints.

Comcast Updates

Gardner listed the new channels that have been added to the Comcast lineup, including five high definition channels. He announced that, in celebration of Black History Month, Comcast is collaborating with the Michigan Interscholastic Forensic Association on a debate between Southfield-Lathrup High School and West Bloomfield High School forensic teams on February 28, 2008 at 5:30 pm at the Millennium Center in Southfield.

Other Issues

None

AT&T RELATED TOPICS

None

MLTV15/ PA18

Zack Florance 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 January 17, 2008 – February 20, 2008).

BCTV hosted a workshop on January 29; nine volunteers attended and five have been helping on studio and truck productions. The next volunteer workshop is scheduled for April 29. Interested individuals can call 248.433.7790 for information about the workshops.

Staff at BCTV has been working closely with the PEG Committee and the vendors to put together the production van proposal. Jeffrey Heldt and Alan Heyman received studio and truck tours at the BCTV facility.

Borgon asked the council and commission liaisons to encourage their communities to provide phone numbers to the cable operators prior to the televised meeting when those numbers will be announced during presentations. The operators will be able to put the phone numbers on the screen for the viewing audience.

OLD BUSINESS

Borgon announced that he will consult with Cable Board legal counsel on signing the contract with Roscor for the production van.

NEW BUSINESS

Tim Currier updated the Board on the current Michigan and Federal legislation and litigation in Federal Court. Federal Court Judge Roberts, who entered a temporary restraining order to keep Comcast from moving local public access channels to the 900 level, has not entered any further orders in that case. There are ongoing discussions between the parties regarding moving the PEG channels.

Two House Bills have been introduced in the Michigan Legislature, HB 5693 and HB 5667, which would keep the PEG channels on the analog system. Legislation has been introduced and are in hearings today on House Bill 5693 and Senate Bill 636 and 637. These are considered to be consumer unfriendly bills having to do with the MPSC claim procedure. Currier urged people to contact their State Legislators and oppose HB 5693 and Senate Bills 636 and 637.

The digital changeover will occur in February 17, 2009 and will require that no further non-digital equipment be manufactured. There is an outstanding question. Some are saying that analog signals will have to cease on February 17. Many of the cable providers are encouraging an easing of that guideline because over 40% of customers are still on analog, and a sufficient number of converter boxes are not available through the government coupon process to switch a substantial number of customers into the digital realm on that date.

Borgon welcomed returning Board member John Decker and asked him to accept the position of Treasure of the Board. Elaine McLain is currently the Secretary/Treasurer as well as Cable Action Committee chairperson and has asked to be relieved of the treasurer duties. Decker accepted the position.

Motion by Borgon, second by Heyman, to elect John Decker as Treasurer of the Birmingham Area Cable Board.

Motion passed unanimously.

BOARD COMMENTS

Pfeifer commented that she has received an increase in her cable bill of 7.2 percent. Also, the Cable Board telephone number is located on the back of the coupon that is mailed in with the Comcast payment. Hagaman will be asked if the location of the Board phone number could be changed.

Borgon stated that Mel Ettenson's letter to Brian Roberts was responded to by John Gardner. Borgon encouraged people to attend Board meetings and voice their comments. He reminded subscribers that the Board still needs to receive their problems in writing so they can be documented.

The meeting was adjourned at 9:18 a.m.