

Present: Armitage, Heldt, McLain, Thorsby - Birmingham
McFadden, Pfeifer – Beverly Hills
Ettenson – Bingham Farms
Eads – Franklin

Absent: Lurie, Urcan – Birmingham
Heyman, Verdi-Hus – Beverly Hills

Also Present: Borgon – Executive Director
Currier - Attorney for Cable Board
Rota - Bloomfield Community Television representative
Dr. Hoffman - Birmingham Schools representative
Valentine and Glenn - Birmingham staff representatives
Armstead – Wide Open West representative

Chairperson McLain 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/AMEND AGENDA

Motion by Eads, second by Thorsby, to add item 3A to elect a member of the Cable Board to serve as Treasurer.

Motion passed (7 – 0).

APPROVE MINUTES OF CABLE BOARD MEETING HELD NOVEMBER 17, 2010

Motion by Pfeifer, second by Eads, that the minutes of a regular Cable Board meeting held on November 17, 2010 be approved as submitted.

Motion passed (7 – 0).

PUBLIC COMMENTS

None

ELECT CABLE BOARD TREASURER

Due to recent business commitments, Mike Urcan is no longer available to serve as Treasurer of the Cable Board. McLain opened the floor for nominations for the position of Cable Board Treasurer.

Heldt nominated Ken McFadden to serve as Treasurer of the Birmingham Area Cable Board. McFadden accepted the nomination. There were no further nominations. McFadden was elected Treasurer by acclamation.

COMMITTEE REPORTS

Cable Action Committee

McFadden has posted a schedule for Cable Action Committee meetings for 2011 on the Cable Board website. Meetings are scheduled for the first Thursday of each month with the exception of March and September.

McFadden commented on relevant topics on the horizon for 2011:

- “There is no such thing as a free lunch” with respect to cable television, and entertainment.
- Channel differentiation is becoming less important.
- All providers have to pay a certain fee for entertainment they carry based upon negotiations.
- A lot of law being written with respect to net neutrality or control of the Internet is at the same point of formation that transportation and railroad law was in 1850-1870 in terms of monopolies. These issues are evolving as they are addressed by Congress and the Federal Communications Commission.
- Part of the mission of this Board is to generate a better consumer, which means people need to be better informed in order to receive good value for their money. It is a charge of this Board to attempt to provide choices for the consumer.

PEG Committee

The PEG Committee will meet at the conclusion of today’s Board meeting. Heldt stated that the Committee will continue to discuss the continuation of sports broadcasting via Birmingham Public Schools.

Dr. Hoffman commented on the expanded programming offered on the Birmingham School District channel including a show called “Focus on Success”, which presents interviews and explores the direction of the District.

EXECUTIVE DIRECTOR’S REPORT

Bob Borgon reported that there were approximately ten new complaints received in the last month. Board members are in receipt of financial reports covering the last three months. Borgon mentioned that a resolution from the Board is required to renew its membership with Michigan NATOA; the annual membership fee is \$130.

Borgon related that Karin Ludwick and Kathy Hagaman from Bingham Farms sent a letter to AT&T challenging its late payments to the municipalities for PEG and franchise fees. The franchise agreement states that franchise and PEG fees are due within 45 days after the close of the quarter, which means that third quarter payments were due by November 15, 2010. Payment after the due date is subject to a \$250 late fee plus 1.8% of the total due per month.

Susan Frentz, Director of External Affairs for AT&T, responded that the company would not pay the late fee as the remittance was postmarked on November 10, 2010, which was fully compliant and within the 45 days after the end of the quarter requirement contemplated in the Video Act.

Karin Ludwick has asked Borgon to seek the opinion of the Board’s legal counsel. Attorney Tim Currier related that there are two competing legal authorities on this matter. The Uniform Video Franchise Act provides that payments for franchise and PEG fees are to be made within 45 days of the end of the calendar quarter. Each community also has a Consumer Protection Ordinance dealing with cable franchise matters. It includes penalties for late payments of these fees by terms of a flat fee and an interest payment.

The AT&T payment was received by Bingham Farms two days late. Payment after the due date is subject to \$250 late fee plus a 1.8% of the total due per month. Bingham Farms is requesting a late fee of \$257.00. The response from AT&T was that they postmarked the payment to comply with the 45 days, and they would not pay a late fee. Currier said that the question is whether there is a late fee applicable.

The Uniform Video Franchise Act calls for payment within 45 days but does not indicate a penalty if the payment is not made within the 45 days. Currier thought that a deadline should include an applicable penalty if the deadline is missed. That penalty could be interpreted through the local consumer protection ordinances, which will be disputed by AT&T and other providers. Currier added that a penalty is supported by Federal Law; the Federal Cable Act provides that late fees can be applied by local municipalities as well.

Bingham Farms Attorney Gary Dovre indicated that he suspected that the Uniform Commercial Code would support the Village's position, but it does not apply to this situation. As a practical matter, the cost of pursuing imposition of a late fee would be prohibitive. However, there is a principal involved in collecting a late fee in these situations. Currier believes that it is worthwhile for the Village to pursue this in terms of writing AT&T and writing the Public Service Commission in an attempt to enforce imposition of a late fee. He suggested that each of the municipalities check with their treasurers to determine when their AT&T payments were received. Currier added that the consortium communities could conduct a collective franchise fee review to attempt to recover payments on late franchise and PEG fees.

Armitage entered the meeting at 8:05 a.m.

Motion by Ettenson, second by Eads, that the Birmingham Area Cable Board renew its 2011 annual membership in the Michigan Chapter of the National Association of Telecommunications Officers and Advisors (NATOA) in the amount of \$130.00.

Roll Call Vote:
Motion passed (8 – 0).

Borgon was requested by a member of the Board to compile a rate comparison between the three television, Internet and phone providers who offer service in the member communities. He will have this information available for the next meeting.

COMCAST RELATED TOPICS

McLain commented on several of the Comcast complaints received within the last month. One of the issues was requiring identification for billing and service. Currier said that the company is permitted to ask for verification of the identity of the account holder for identity theft purposes. McLain said that an individual could request other inquiries in lieu of revealing the last four numbers of their social security number.

Other complaints included a Comcast subscriber who did not realize that there were installation and activation charges for high definition television. McLain suggested that the customer contact the Cable Board if their concerns are not resolved by Comcast. Thorsby related that Comcast

invites contacts from customers, which results in initiating a charge. He questioned the legality of this practice; clarification will be sought.

Other complaints involved ongoing billing concerns, additional charges being billed following a home visit, bundling offers that expire in six months, lack of competition in certain areas, and options for cable service in multi-dwelling units. In response to an inquiry, Kathy Armitage stated that WOW will not be offering its service to apartment buildings at this time.

AT&T RELATED TOPICS

McLain said that problems are still being experienced with sound moderation and with viewing PEG programming on the AT&T U-verse product. AT&T is continuing to investigate the source of these problems.

WOW RELATED TOPICS

Armstead reported that there are 21 nodes active in Beverly Hills and five remaining to activate. The installation is expected to be complete by the end of the year weather permitting. There are 14 nodes active in the City of Birmingham with 35 nodes remaining. Construction should be completed by the end of February.

Rate increase letters were mailed to WOW customers on November 21, 2010. Customers that have a rate guarantee until 2012 and 2013 will not be affected by the rate increase unless they have a premium channel.

Armstead thanked everyone for their cooperation and partnership throughout the construction of WOW Internet and cable in Beverly Hills and Birmingham. There have been occasional issues, but resolution was received within 24 hours in most instances.

McLain related that the Board now designates complaints as informal, from people who chose not to give their contact information, and formal complaints, which are written and numbered. McLain mentioned that a Birmingham resident questioned what recourse is available when there is damage outside of an easement due to the actions of a cable provider. Currier responded that the resident can contact the Cable Board to see if the problem can be informally resolved. If that does not work, it becomes a private dispute between the individual and the provider that would be resolved in the courts.

BAMA/BAPA REPORT

Steve Rota presented the Bloomfield Community Television report on programming taped for Municipal Channel 15 (BAMA), PA Channel 18 (BAPA), and programming from BACB area organizations during the last month (information included in BCTV monthly report for November 18, 2010 – December 15, 2010).

Rota reported that BCTV staff will be trained this afternoon on the new equipment installed at Baldwin Library. The next volunteer camera workshop is scheduled for Monday, January 10.

McLain commented that BCTV will be working with Borgon on compiling a list of PEG equipment in the studio and in other facilities.

In answer to an inquiry about WOW carrying PEG channels, Rota said that he spoke with a representative from WOW about this recently. Armitage related that the PEG channels are up, but WOW is trying to improve the reception. A meeting will be set up with BCTV and Comcast staff to work out the fiber connect issue.

OLD BUSINESS

None

NEW BUSINESS

McLain mentioned that she visited the Gas Station TV office in Birmingham. GSTV is a digital television network that engages consumers at the pump and provides broadcast-quality television content custom-produced for GSTV. It features ESPN sports, news and entertainment, and market-specific AccuWeather. McLain talked to their manager about airing community information on the GSTV platform.

PUBLIC COMMENTS

None

BOARD COMMENTS

Ettenson stated that he recently contacted a high tech company with a complaint regarding a software purchase. The response to his inquiry via email was: “Our greatest glory consists not in never failing, but in rising every time we fail. – Confucius”.

McLain congratulated Joe Valentine on his appointment as Acting City Manager. Valentine related that former Ferndale manager Robert Bruner has been appointed as new manager for the City of Birmingham and will be joining Birmingham in February. McLain also thanked Birmingham representative Toya Glenn for her assistance.

The meeting was adjourned at 8:45 a.m.