

Present: Armitage, Decker, Heldt, McLain - Birmingham
Borgon, Heyman, Woodard – Beverly Hills

Absent: Abbott– Birmingham
Ettenson – Bingham Farms
Jahnke – Franklin
Verdi-Hus – Beverly Hills

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

Chairperson Borgon called the meeting to order at 7:47 a.m. in the Village of Beverly Hills municipal building at 18500 W. Thirteen Mile Road.

APPROVE MINUTES

A correction was made on page 4, last paragraph, to correct “Heldt” to read “Borgon”.

Motion by Decker, second by Heyman, that the minutes of a Birmingham Area Cable Board meeting held on February 20, 2008 be approved as amended.

Motion passed.

PUBLIC COMMENTS

None

EXECUTIVE DIRECTOR’S REPORT

Hagaman reported that there has been no new legislative activity in Lansing on Uniform Franchise Agreement issues or with the temporary restraining order imposed on a Comcast proposal to move public access channels in Michigan to the 900-level.

There were ten new complaints submitted to Comcast since the last Cable Board meeting; all but one has been resolved. Hagaman brought up two recurring issues. It has been a policy of Comcast to resolve chronic complaints by providing certain subscribers with direct contact numbers for upper level personnel. While this resolves some problems, it might be more appropriate to improve lower level customer service representative contact issues. The practice bypasses the Board’s system that tracks continuing problems.

The second issue relates to Comcast explaining its service tiers to customers who call with complaints about price increases. Subscribers want lower rates and not an explanation of services. They are asking for senior rates or packages for niche markets.

McLain suggested that Comcast provide those subscribers with an explanation as to why a senior tier is not an option after repeated requests and why the cost of the entry level tier has increased as much as it has.

Hagaman commented that it is difficult to answer phone calls from Comcast subscribers about the availability of AT&T service without information about the location of the U-verse product rollouts. She refers people to the AT&T web site.

Hagaman thanked the BCTV staff and Bob Borgon for their assistance with finalizing the equipment list and concluding the contract with Roscor for the production truck. A deposit check was written in the amount of \$213,000, which is 25% of the total cost of the truck. The equipment will be ordered simultaneously with the build of the truck so that installation will follow once the truck is completed. The Board is looking at a June 18 delivery date. Hagaman reported on the status of insurance coverage for the new truck from insurance carrier, Michigan Municipal Risk Management Authority.

BCTV has been working on developing concepts for a new logo and identity to replace the current emblem for local public access stations. This will be necessary to incorporate identification of the public and government access channels with the conversion to digital as well as incorporation of the AT&T U-verse system. Hagaman displayed a picture of a possible logo developed by BCTV staff using the letters 'BAPA' over the words 'Birmingham Area Public Access'. Board members provided input on the design.

NATOA (National Association of Telecommunication Officers and Advisors) conducted a survey on the impact of State Video Services Legislation on competition and pricing. The findings corroborate what the BACB has experienced.

COMMITTEE REPORTS

Cable Action Committee

McLain related that the Cable Action Committee discussed liquidated damages at its February meeting. Another topic was the BACB website. She has contacted Board members asking for feedback on how the web site can be updated and improved. The Committee addressed the logo for the production truck. Ideas will be appreciated.

McLain mentioned that there has been a recurring issue with the location of the Cable Board contact number on the Comcast bill. The number is prominently displayed in a location that is mailed in with the subscriber's payment. Gardner responded that the location of the Cable Board number has been discussed previously and needs to remain where it is. McLain would like to consider another option.

McLain pointed out an error on the web site. Coupons for converter boxes to be used for the digital conversion will be available from the government between January 1, 2008 and March 31 of 2009.

McLain related that she received two coupons in the mail from the National Telecommunications and Information Administration for purchase of converter boxes. The mailing included

information on where the coupon can be used and what equipment qualifies. These converter boxes are to be used for televisions that receive a signal through rabbit ears or an antenna. People can call 1-888-DTV2009 for follow up questions. Information on matters related to the digital conversion and television reception is available on the web site www.howstuffworks.com. McLain mentioned that there is an explanation of digital television and the digital conversion in the March issue of Consumer Reports magazine.

In response to an inquiry, John Gardner explained the distinction between televisions that would need a converter box subsidized by the government and those that would not. Televisions connected to Comcast cable service would not need a converter box.

Attorney Tim Currier asked Gardner if Comcast will continue broadcasting in analog after February of 2009. Gardner responded that it is a marketing issue, but he can say that Comcast analog customers will not be turned off. The signals will be reconverted to analog, or there may be other instances of using different technology. Gardner stated that there is an agreement with the FCC to continue to provide the analog signal in systems that are not all digital for at least an additional three years.

Lisa Martinico commented that, if the municipal access or local channels go to the digital tier, a subscriber would need a digital box to receive those channels.

The next Cable Action Committee meeting will be held on March 26.

PEG Committee

Heldt reported that the Birmingham Area Cable Board contract with Bloomfield Community Television expires on June 30, 2008. The Board will be addressing an extension, renewal or replacement of the existing contract with BCTV. Heldt has had preliminary talks with Leslie Helwig from BCTV on that subject. It will be a topic of further discussion at the PEG Committee meeting immediately following today's Board meeting. The topic of van sharing with BCTV will be part of those discussions.

COMCAST RELATED TOPICS

Liquidated Damages

There was a lengthy discussion at last month's Board meeting on whether to assess liquidated damages to Comcast for defaults. The Cable Board agreed to allow Comcast an opportunity to review the documents submitted by the Board and respond to the complaints. A motion was passed to table discussion of assessing Liquidated Damages.

John Gardner representing Comcast referred to his February 19, 2008 letter to the Cable Board. That correspondence outlined the position of the cable company on the matter of Comcast service complaints. From a regulatory standpoint, Comcast feels that the Uniform Video Services Local Franchise Act removed the ability of the local franchising authority to assess these type of damages. The customer service standards that are in place now are those that are contained in rules of the Federal Communications Commission under 47 CFR 76.309(c).

Gardner stated that the August 30, 2007 letter from Comcast outlined changes to the regulatory environment under the new State Law. One of the issues that was raised was telephone standards. There are going to be complaints. The standard is that the phones will be answered in a certain amount of time at a certain percentage on a quarterly basis. The letter reported that Comcast's telephone statistics have been meeting FCC standards. Gardner stated that Comcast has an issue with whether the Board has the authority to issue penalties in the form of liquidated damages and with what standards are being used.

Gardner maintained that all of the complaints he reviewed on the spread sheet prepared by Attorney Mike Salhaney were resolved within the time frame that was outlined. The Board is suggesting that, in accordance with language in the Franchise Agreement, three events occurring within a 12 month period would automatically be considered uncured defaults. Gardner questioned whether any organization serving millions of customers could go for 12 months without any instances where they could have done better. The standard cannot be that there will be no complaints.

There followed a discussion on whether Comcast customer complaints are resolved satisfactorily. The Board indicated that the point is whether an issue is resolved and how that determination is made. Gardner maintained that all but one of the complaints in the default chart were resolved well within the date for cure listed on the form. He added that Comcast believes that the customer service standards in the Franchise Agreement are no longer in effect; under the new law, Comcast must meet FCC customer service standards.

McLain commented that there was an understanding between the Cable Board and Comcast in 2000 regarding the assessment of liquidated damages. She understood that there is always room for improvement, but the most recent complaints underscore that there is a pattern of systemic problems with service. People are telling the Board that Comcast needs to do a better job in our community; every provider should be held to the highest possible standard.

Gardner cited examples of how Comcast is working to improve. There is a special process and a special group in the four communities that takes care of complaints that come through the Board. Comcast believes that the process is working well and that the number of complaints has decreased. Gardner commented on some of the investments that Comcast is making in Michigan to improve customer service including a Comcast digital voice center in Westland and a training center in Roseville.

Armitage questioned whether a declaration of resolution by Comcast equaled a resolution in every case. He attempted to determine which complaints were resolved.

Gardner responded that, when Comcast reports to the Board that a complaint is resolved, it means that the customer care specialist has contacted the customer and issued credits or given refunds if they are due, and provided correspondence if it was necessary.

Motion by Heldt, second by Woodard, to take the discussion of assessing Liquidated Damages to Comcast off the table.

Motion passed.

Heldt stated that he understood that Comcast does not think it is in default and denies that the Cable Board has the right to assess liquidated damages. He proposed that the process proceed to the next step.

Motion by Heldt, second by Woodard, to assess liquidated damages as set forth in the list of defaults for each consortium community prepared by the Cable Board's legal counsel in the total amount for all four communities of \$13,700.

Attorney Tim Currier outlined the issues under discussion by Comcast and the Cable Board. One issue is the legal authority of the Board to assess liquidated damages or to enforce the standards against Comcast. The Board is concerned with the basic issue of how to resolve the problems with Comcast and make the subscribers happy. It is unfortunate that Comcast is raising a legal issue in saying that the Board cannot enforce certain consumer protection standards.

The new State Act provided Comcast with the option of terminating the existing franchise or continuing under the existing Franchise Agreement. There is a specific requirement of the Act that the provider agrees to comply with all valid and enforceable local regulations regarding the use of the rights-of-way and delivery of services, etc. Comcast is picking and choosing what they say is valid and enforceable. Comcast changed the payment schedule; they state that the consortium cannot enforce customer service standards.

Currier stated that the minimum customer service standards are the same regardless of whether they are the standards from the existing Franchise Agreement with Comcast or from the new State Act because they are derived from Federal Law 47 CFR 76.309. This section is specifically and explicitly incorporated in the Uniform Video Services Local Franchise Act. It states that there is a requirement that the provider comply with all customer service rules of the Federal Communication Commission under 47 CFR 76.309 (c). They are also required to comply with all applicable provisions of the Michigan Consumer Protection Act.

When this list of defaults was initially compiled, the attorneys looked at the violations in the Franchise Agreement and then identified specific violations of either the Michigan Consumer Protection Act or the Code of Federal Regulations. These are the minimum standards to be enforced.

The Code of Regulations does not say that every complaint is necessarily a default. But it states that certain things shall happen in certain instances. Currier gave specific examples. Under normal operating conditions, telephone answering times shall not exceed 30 seconds, and that shall be achieved no less than 90% of the time. The Comcast letter of August 30, 2007 states that they achieved this standard 90.6% of the time. The Board has never audited that number.

The Code of Regulations state that the customer will receive a busy signal no less than 3% of the time under normal operating conditions. Currier stated that this Board has had many complaints that customers have been on hold for long periods of time or have received busy signals. The federal regulation defines normal operating conditions as meaning those service conditions

which are within the control of the cable operator including but not limited to special promotions, pay-per-view events, rate increases, regular peak or seasonal demand periods, and maintenance upgrade of the cable system. Those instances not in control of the operator include natural disasters, civil disturbance, power outages, telephone network outages and severe weather conditions. Currier also commented on standards related to service installations noting that a four-hour appointment window is a federal regulation.

Comcast is saying that only minimum federal regulations can be enforced according to the Act. Currier contends that the State Act does not pre-empt federal regulations. He emphasized that the focus should be on providing a resolution for customers. The hallmark of this Board over the years when attempting to resolve issues with Comcast has been to achieve customer satisfaction. Currier views this as an ongoing working relationship with Comcast.

Currier noted that Attorney Salhaney applied the applicable section of the Federal Code of Regulations to every incidence of liquidated damages listed. The Board may choose to table assessing liquidated damages until those specific references are reviewed by John Gardner. Armitage stated that he would like to see a response from Comcast on the revised default document prior to assessing liquidated damages.

Borgon submitted that the Board has analyzed the liquidated damages and has had discussions with Attorney Salhaney and John Gardner on the details of federal regulations. Heldt concurred that assessing liquidated damages to Comcast does not stop the discussion of how to resolve the assessment. The document will be provided to Comcast, and the Board will be interested in a response. The Cable Board may decide that there is an alternate solution. Heldt proposed that the Board vote to proceed with the process.

Roll Call Vote:

Armitage	- no
Decker	- yes
Heldt	- yes
McLain	- yes
Borgon	- yes
Heyman	- yes
Woodard	- yes
Pfeifer	- yes

Motion passed (7 – 1).

Comcast Updates

Gardner listed new High Definitions channels that will be added to the channel lineup in the next couple of weeks. Comcast will have 39 HD channels with these additions.

Gardner mentioned a promotion running through Arbor Day. For every customer who signs up for electronic billing between now and Michigan Arbor Day on April 25, Comcast will donate \$1 to the Arbor Day Foundation.

AT&T RELATED TOPICS

McLain spoke with Carmen Johnson, AT&T External Affairs Director, about the progress of AT&T PEG channel delivery. Johnson responded that she has not heard from any of the BACB communities regarding airing PEG channels. McLain suggested that AT&T provide the communities with a T-1 line to assist with this process. She will follow up with Johnson on the topic of moving forward with PEG. The only AT&T PEG station that is broadcasting in this area is in Clinton Township.

McLain stated that Carmen Johnson has invited Board members to tour an IP Video Hub Office where the AT&T signal is sent out. Anyone interested in participating should contact McLain with several dates when they would be available.

MLTV15/ 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 BCTV monthly report for February 21, 2008 – March 19, 2008).

The Program Development Committee met last week to discuss five new studio programs: cooking series, exercise series, religious series, senior series, and a one-time show dealing with health. The next Volunteer Workshop is scheduled for April 29th. Interested individuals can call 248.433.7790 for information and to sign up.

Board member Mark Armitage toured the BCTV studio. Staff provided a hands-on tour to Troop 1022 Tiger Cub Den. Zack Florance visited the Palace of Auburn Hills to view their switcher; Florance and Rota toured WXYZ Channel 7 to look at their High Definition cameras. These facilities use the same equipment that will be installed in the new truck.

OLD BUSINESS

Heyman mentioned that Attorney Currier mentioned two House Bills in the State Legislature last month (HB 5693 and HB 5667). Currier had no update on the bills.

NEW BUSINESS

None

PUBLIC COMMENTS

Hildreth Buterbaugh from Beverly Hills commented that he received a phone message from a Comcast CSR who gave an extension to call regarding a complaint. He suggested that Comcast provide customers with a complete number and not the last four digits. Buterbaugh thought that AT&T was cherry-picking its customers. Currier clarified that the member communities have franchise agreements with AT&T.

Questions from Buterbaugh regarding production van progress reports were addressed by Borgon.

BOARD COMMENTS

Pfeifer announced that Beverly Hills is celebrating its 50th Anniversary this year. Village staff is seeking historic information and old photographs of the early days of Beverly Hills. She thanked BCTV for running promotions and asked if they could add a 50th Anniversary banner to the Beverly Hills identification page.

The 50 years of Beverly Hills will be celebrated all year, but the Village has focused on a celebration in Beverly Park on June 14. Those organizing the event are looking for sponsors to help defray the cost of activities. Pfeifer will contact Comcast and AT&T to request their support.

Borgon related that the possibility of Southfield Township airing Board meetings was discussed at a recent Beverly Hills Council meeting. He noted that the Cable Board has not been contacted by Southfield Township with a request to tape and broadcast its meetings.

The meeting was adjourned at 9:40 a.m.