

Present: Armitage, Decker, Heldt, McLain, Urcan - Birmingham  
Heyman, McFadden, Verdi-Hus, Woodard – Beverly Hills  
Ettenson – Bingham Farms  
Eads – Franklin

Absent: Abbott, Thorsby - Birmingham

Also Present: Borgon - Executive Director  
Currier - Attorney for Cable Board  
Helwig - Bloomfield Community Television representative  
Martinico - Director of Technology, Birmingham Schools  
Glenn – Birmingham staff representatives  
Visperas - Comcast representative

Chairperson McLain 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 OF REGULAR CABLE BOARD MEETING OF JUNE 17, 2009**

The correction was made on page 2, paragraph 2, to correct the spelling of the name ‘Ryan McAnany’.

Motion by Heldt, second by Ettenson, that the minutes of a regular Cable Board meeting held on June 17, 2009 be approved as amended.

Motion passed.

**PUBLIC COMMENTS**

None

**ELECT BOARD OFFICERS**

McLain opened the floor for nominations to the office of chairperson. Armitage nominated Elaine McLain to serve another term as chair; McLain accepted the nomination. There were no further nominations. McLain was elected chairperson by acclamation.

Nominations for the position of vice-chairperson of the Cable Board were accepted. Heldt nominated Mel Ettenson, who accepted the nomination. Ettenson was elected vice-chairperson by acclamation.

Decker nominated Mike Urcan for the position of treasurer of the Cable Board. Urcan accepted the nomination and was elected to the position by acclamation.

McLain nominated Alan Heyman for the position of secretary of the Cable Board. Heyman accepted the nomination and was elected to the position by acclamation.

McLain proceeded to appoint committee heads. Current Cable Action Committee chair Mark Armitage has indicated that he is ready to transition from the position. McLain appointed Ken McFadden as chairperson of the Cable Action Committee and Lew Eads as co-chair.

McLain asked Jeff Heldt to continue as chairperson of the PEG Committee. She requested participation from other Board members on this committee.

John Decker was appointed as head of the Personnel Committee. Other members of this committee will be Mel Ettenson, Jeff Heldt, and Carol Woodard.

## **COMMITTEE REPORTS**

### **Cable Action Committee**

Armitage reported that there was discussion at the June meeting about the process of engaging in long-range planning for the Cable Board. Conversation was stimulated by a review of the existing mission statement and other documents. Committee members agreed to review past activity of the Board with an eye towards future goals. The process would include updating the mission statement in light of new regulatory environments and a tutorial on all relevant documents that assign responsibility to the Board with an eye toward whether there should be revisions or updates. The suggestion was made to engage an outside facilitator to assist with the development of long range plans.

Leslie Helwig, general manager of Bloomfield Community Television, presented highlights of her July 15, 2009 memo regarding the Michigan NATOA Public Awareness Campaign Accomplishments and Status. She explained that the MI NATOA Executive Committee initiated a public awareness campaign that kicked off in September of 2008. The group raised over \$31,000 towards this effort from communities and other non-profit groups. The Executive Committee entered into an agreement with John Bailey and Associates, public relations firm with extensive experience in working with legislative issues.

The Public Awareness Committee goals were to:

- Position MI NATOA as an important partner in delivering PEG programming
- Raise awareness regarding the failure of PA 480 to deliver on promises of competition, better customer service and lower prices for consumers;
- Influence the MPSC report, due to the Legislature Feb. 1, 2009, so that it did not provide an inaccurate, pro-monopoly picture for legislators.

Helwig said that the Committee's message was directed to its own membership and potential membership, state legislators, municipal government officials, and statewide media. She provided a summary of the Committee's key accomplishments to date. Helwig informed the Board that the Public Awareness Committee does not have the funding to continue past July with the public relations firm or to engage the professional services of attorney Jon Kruecher. Through its work with these professionals, the Committee membership is positioned to strengthen its web presence, speak to legislators and local officials on a one-to-one basis in home communities, continue outreach to the media, and mobilize its local studios to create programs that further their message. Helwig thanked the Cable Board for its support.

McLain stated that a link to [www.makeCableBetter.org](http://www.makeCableBetter.org) will be placed on the Cable Board website.

Board members addressed the status of fund raising efforts and how the public awareness effort could be continued in order to provide a continuous presence, advocate public interest and communicating with state legislators.

### **PEG Committee**

Heldt stated that Board members have received copies of an Amendment to the Agreement for Cable Access Management relative to use of the production truck by Bloomfield Community Television. Copies of the guidelines for truck usage are available. The contract has been reviewed and approved by the attorneys representing both parties.

Motion by Heldt, second by Eads, to authorize the Cable Board Chairman to execute the Amendment to Agreement for Cable Access Management on behalf of the Birmingham Area Cable Board and Bloomfield Community Television.

The Agreement will also be signed by David Payne, Bloomfield Township Supervisor.

Motion passed unanimously.

### **Personnel Committee**

Ettenson reported that all positions for Birmingham representatives on the Cable Board have been filled.

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

Borgon reported that Plante & Moran has begun work on the annual Cable Board audit. Documentation requirements have increased. He will be working with Beverly Hills Finance Director Bob Wiszowaty on providing material to the auditors.

The Cable Board has a full compliment of members with the appointment of Gordon Thorsby from Birmingham.

There was one official Comcast complaint received this month, which has been resolved. Borgon mentioned that he has talked to 30-40 residents in the last few days about Comcast's letter regarding changing Comcast's network enhancement to transmit channels in digital format. There were two comments from AT&T subscribers regarding the hookup of PEG channels. A communication was received from former Executive Director Tom Hanson via the website; a copy of the note was included in the Board's information packet.

Borgon issued a final \$5,000 check to Michigan NATOA towards the \$10,000 contributed by the BACB towards their public awareness campaign. Municipal grants will be issued at the end of the month and the beginning of August.

Borgon attended the June 29 Birmingham Commission meeting with Chairperson McLain to present the Cable Board Budget for fiscal year 2009/2010; they addressed questions from Commission members.

The Cable Board conducted a franchise fee review of Comcast several years ago at which time it was determined that Comcast had not been paying its franchise fees and PEG fees correctly. The Cable Board may want to consider authorizing a franchise fee review of Comcast and AT&T.

Borgon reported on the status of delivering PEG channels to AT&T U-verse subscribers. He was informed by AT&T that the Board must issue a purchase order before any work is started on the hookup; he was subsequently notified that the Cable Board had to sign a contract before work was begun. Both items were supplied to AT&T. Borgon commented on the delays involved in connecting our PEG programming to the AT&T U-verse product.

Borgon updated the Board on air conditioning and wiring problems with the production truck. Roscor is troubleshooting and attempting to locate the source of the problem.

Comcast sent a letter to subscribers announcing that the company is going to digitally enhance its cable system by moving the Standard Basic channels (29-72) to the digital tier effective on or about August 11, 2009. A Standard Basic subscriber will have to equip their televisions with digital equipment. They must have a Main Digital Converter Box and Digital Transport Adapter for each television. Comcast is offering free adapters for the first three televisions in a household; additional Digital Transport Adapters are \$1.99 per month.

Borgon referred to an electronic transmission dated June 26, 2009 from AT&T providing an opinion relating to the Federal Communication Commission's authority to grant a declaratory ruling regarding its authority over PEG programming as it applies to the City of Dearborn versus Comcast of Michigan lawsuit. Board Attorney Currier will comment further on this communication.

Borgon reported on a subscriber complaint received July 10 that was resolved by Comcast in less than 24 hours after the resident contacted the Cable Board. He noted that a Birmingham resident asked how someone can place an event notice on a public access channel. Borgon spoke with Steve Rota from BCTV about posting information on the municipal and public access channels on how to broadcast community information on cable television billboards. It was suggested that information on how to post events on the municipal channel be added to the BACB website.

Borgon referenced a July 12 Birmingham Eccentric article regarding funds returned to member communities by the Birmingham Area Cable Board.

Buterbaugh commented that Comcast sent out a letter with helpful enclosures to explain that the remaining standard basic channels will be transmitted only in digital format after a certain date. The material described the equipment that subscribers must have to receive the digital enhancements and related offers. Buterbaugh stated that he is paying for two boxes; he asked if he can now receive one of them at no charge. Comcast representative Olivia Visperas

commented on the distinctions associated with providing one digital set-top box at no additional cost and offered to talk to Mr. Buterbaugh after the meeting.

Heldt commented on the previous announcement from Comcast that coincided with the federal digital transition on June 12, 2009. Comcast informed subscribers of the equipment they needed to maintain programming if they had non-digital televisions. Heldt questioned why Comcast is sending a similar mailing without reference to the previous mailing.

Comcast representative Olivia Visperas stated that the federal transition affected only over-the-air broadcasters. Comcast did put out a communication to customers at that time encouraging them to assess the equipment in their homes so that they will continue to receive the channels they expect. The recent communication was mailed to get the word out to the remaining customers who require the necessary digital equipment by the time the Comcast digital enhancement is completed.

Attorney Tim Currier commented on the AT&T correspondence of June 26 asking for a petition for declaratory ruling regarding the primary jurisdiction with respect to City of Dearborn versus Comcast of Michigan. Some of the arguments proffered on the topic of location of PEG channels have been whether state law is preempted by federal law. The letter outlines AT&T's position to the Federal Communications Commission. AT&T explained that the Cable Act narrowly circumscribes Commission authority over PEG. The Act does not require that PEG programming be made available; rather, it simply permits franchising authorities to require cable operators to set aside capacity on their cable systems for PEG.

In other words, AT&T is saying that the federal government does not require PEG channels to be carried; it is up to the local franchising authorities. AT&T indicates in the letter that many states have enacted state franchising requirements; no longer is the federal act being used. If AT&T receives a favorable ruling that the federal government does not require PEG and it is up to the states, Currier expects a full lobby effort by AT&T to eliminate PEG. AT&T lobbied heavily to pass the Michigan Uniform Video Services Local Franchising Act (PA 480). Currier thought that the public should be made aware of what AT&T is doing.

Heldt concurred that there is a need for an ongoing public awareness campaign to protect PEG programming and make sure our representatives in Lansing understand what is occurring.

Helwig stated that NATOA will never be able to match the money that AT&T can put into lobbying efforts. Michigan NATOA will have to find other ways to deliver its message. One of the activities of the public awareness campaign was to encourage and empower the NATOA membership to raise awareness and communicate the importance of PEG programming at a grass roots level. It would be wonderful if NATOA could raise money and lobby on a professional level; but the organization has to be creative and find other ways of making its voice heard.

Currier referred to a provision in Act 480 that says, if a municipality does not operate its PEG channels at a certain level for a certain amount of time, the cable companies can reclaim them. That provision was negotiated by AT&T; the company is attempting to preempt federal

regulations. AT&T wants to reclaim the PEG channels if they are not used, and they are making it difficult and costly for this consortium to get hooked up to PEG two years after the rollout.

Currier referred to an item brought up by Borgon regarding a franchise fee review. He explained why it is more efficient and cost effective to conduct a franchise fee review of the providers as opposed to an audit. At the time the last franchise fee review was done, there were deficiencies found in the way franchise fees and PEG fees were being paid. The matter was resolved after several years of negotiation with Comcast. Hopefully, the same problems are not recurring. Currier recommended that the Board conduct a franchise fee review of Comcast and AT&T.

Motion by Heldt, second by Ettenson, to proceed with a franchise fee review of Comcast and AT&T.

Motion passed unanimously.

### **COMCAST RELATED TOPICS**

Olivia Visperas commented on communications that regularly go out to Comcast customers. She suggested that communities provide cable television information to the public in their community newsletter or website to motivate customers to make the necessary changes that will equip their homes to maintain the same level of service after the digital enhancement is complete.

McLain asked Visperas to speak with Lisa Martinico with regard to a concern about the loss of some of the channels that the schools receive.

### **AT&T RELATED TOPICS**

There was no representative from AT&T present at today's meeting. McLain reported that Lisa Martinico filed the paperwork necessary to receive PEG programming on the AT&T U-verse product as part of the management information services part of the application. The consortium communities are close to receiving PEG programming.

### **MLTV15/PA18 REPORT**

Leslie Helwig from Bloomfield Community Television reported on programming taped for Municipal Channel 15 (BAMA) and PA Channel 18 (BAPA) during the last month and noted upcoming programs of interest (information included in BCTV monthly report for June 17 – July 15, 2009).

Helwig reported that employee Jeff Gudme left the BCTV staff; the position will not be replaced on a full-time basis. Former Ferris State University intern Rich Green will increase his hours to cover some of the work Jeff was doing. Helwig assured the Board that there will be no change to BACB programming.

The Program Development Committee met on June 18. Three proposals were reviewed, and two are moving into pre-production. Other items in the BCTV report were covered during the meeting.

**OLD BUSINESS**

McLain commented that the Birmingham Eccentric is continuing to print its newspaper on Sundays. People can support the publication by purchasing a subscription for six months or a year.

**NEW BUSINESS**

Heyman had a question on the Eccentric article included in the Board packets. It was clarified that each municipality collects a 3% PEG fee from the provider that is restricted to Public Educational Governmental use only.

**PUBLIC COMMENTS**

None

**BOARD COMMENTS**

Tim Currier announced that there will be groundbreaking this morning for the reconstruction of Shain Park after 82 years of planning.

Eads thanked Leslie Helwig for her presentation on the Michigan NATOA public awareness initiative. He thought that the work NATOA is doing is critically important and commented on the significance of lobbying to the state legislature. As newspapers are declining in importance, PEG programming will play a larger part in providing local news to citizens.

The meeting was adjourned at 9:13 p.m.