

BIRMINGHAM AREA CABLE BOARD MEETING

Wednesday, February 19, 2014 at 7:45 am

\*\*\*Village of Beverly Hills\*\*\*

18500 West 13 Mile Road

1. Roll Call
2. Approve Meeting Minutes For Cable Board Meeting of January 15, 2014-M
3. Public Comments
4. Committee Reports
  - a. Cable Action Committee
  - b. PEG Committee
5. Executive Director's Report-M
6. Provider Related Topics
  - a. Comcast
  - b. AT&T
  - c. WOW
7. BAPA/BAMA Report
8. Old Business
9. New Business
10. Public Comments
11. Board Comments
12. Adjourn

PEG Committee meeting immediately following BACB meeting

Present: Heldt, Kelly, Linsenman, McLain - Birmingham  
Borgon, Burry, Heyman, Schneider – Beverly Hills  
Ettenson – Bingham Farms

Absent: Lurie, McAlear – Birmingham  
Verdi-Hus – Beverly Hills  
Stakhiv – Franklin

Also Present: White - Executive Director  
Currier - Attorney for Cable Board  
Rota - Bloomfield Community Television representative  
Valentine – Birmingham staff representative  
Galbraith – Birmingham Public School representative

McLain called the meeting to order at 7:48 a.m. in the Birmingham Commission Room in Birmingham City Hall at 151 Martin Street, Birmingham.

#### **APPROVE/AMEND AGENDA**

Motion by Heldt, second by Borgon, to amend the agenda to add three items under the Executive Director's Report: 1) Consider adoption of Fund Reserve Policies; 2) Consider approval of Administrative Grants to member communities; 3) Consider approval of Budgetary Amendments.

Motion passed.

#### **APPROVE MINUTES OF CABLE BOARD MEETING HELD DECEMBER 18, 2013**

Motion by Heldt, second by Ettenson, that the minutes of a regular Cable Board meeting held on December 18, 2013 be approved as submitted.

Motion passed.

#### **PUBLIC COMMENTS**

None

#### **COMMITTEE REPORTS**

##### **Cable Action Committee**

Executive Director White reported that, at its last meeting, CAC members discussed the Cable Board Annual Report and the proposed Fund Balance Policy on Franchise fees and PEG fees.

In response to an inquiry, it was noted that Cathy White prepared this year's Annual Report with input from subcommittee members and Chairperson McLain.

##### **PEG Committee**

Heldt stated that the PEG Committee will meet following today's Board meeting. Borgon highlighted topics discussed at a recent Program Development Committee meeting. Those in attendance talked about how BCTV allots time slots for public and municipal programs. BCTV staff indicated that there was time available for additional programming requests from the

communities. Cable Board members were asked to become involved with their respective municipalities in order to suggest community events to be included in the BCTV programming schedule. Member Pat Schneider volunteered to communicate with Beverly Hills staff regarding community events and activities.

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

White highlighted two pending complaints that were resolved since the last meeting. There have been three new complaints. A complaint regarding a recent rate increase from WOW has been resolved along with a Comcast service issue. A complaint regarding a Comcast promotional rate is pending. Two additional complaints have been submitted since White's report was distributed. Mel Ettenson entered a complaint regarding the Comcast business class service plan.

The Executive Director's report included monthly financial reports and check disbursement information. White related that the Board has received the final bill from audit firm, Plante & Moran. The final billing is higher than the budgeted amount for the reason that it includes additional services requested in connection with the formation of a new fund balance policy. The balance due to the auditors is \$5,900.00; White requested Board authorization for payment of this bill.

Motion by Heldt, second by Heyman, that the Birmingham Area Cable Board authorize payment to Plante & Moran of a bill in the amount of \$5,900.00 for services related to the final audit and the formation of a new fund balance policy.

The Board was informed that payment was made to Plante & Moran for review of financial statements and preparation of the Cable Board annual audit report in the amount of \$5,500. The amount of additional billing submitted by Plante & Moran for work on the fund balance policy was approximately \$12,000. McLain proposed to the firm that the Cable Board has retained Plante & Moran since 2002 and has received an unqualified audit opinion every year. The Board's fund balance has been an ongoing issue, and an attempt was made by Cable Board representatives with the assistance of Plante & Moran to streamline the process in terms of developing fund balance policies. Plante & Moran agreed to absorb the cost of a portion of that professional consultation.

Board members thanked Jeffrey Heldt for his hard work on spearheading the effort to develop fund balance policies for Franchise and PEG fees.

Roll Call Vote:  
Motion passed (9 – 0).

White stated that the Birmingham Area Cable Board regular meeting schedule for 2014 and the Cable Action Committee meeting schedule were included in her report and will be posted on the BACB website.

### Fund Balance Policy

Heldt stated that two proposed policy statements have been developed to display fund balances broken out between franchise fees (devoted to operating expenses) and PEG fees (devoted to

PEG). The policy statements have been provided to Board members along with information relative to financial implications related to adopting these measures.

Motion by Heldt, second by Borgon, that the Birmingham Area Cable Board adopt the following Fund Balance Policies:

**Proposed Policy on Franchise Fees**

In any given year, the policy is to administratively grant back to the communities 75% of any year end audit “excess” between operating (franchise) income and expense. This preserves “working capital” for operations at 25% of last year’s franchise fees (should be displayed as an Administrative Fund Balance).

**Proposed Policy on PEG Fees**

The Cable Board should carry a PEG Fund Balance equal to 1.2 times accumulated net depreciation of its capital assets, PLUS an amount equal to one-half of a 3 year running average of PEG grants PLUS 3 months of Bloomfield Community Television and programming expense.

Heldt explained that the idea is to reserve funds for equipment replacement, PEG grants to communities and Birmingham Public Schools, and BCTV expenses and related programming. These policies will allow for a working capital in the case of Franchise fees and PEG fees.

McLain added that this policy formation has been developed with consultation from Joe Valentine, Tim Currier, and members of the Cable Board. She commented on specific aspects of the Cable Board fund balance. The Board’s goal is to carry out its mission, protect its revenue stream for the communities, and return money through paragraph 5 of the Interlocal Agreement. This policy is a way of formalizing the arrangement. McLain emphasized that Franchise and PEG fees are being spent responsibly as directed by the Interlocal Agreement and Board Bylaws for the benefit of the consortium and its citizens.

Heldt related background information that led to developing fund balance policies to address the aggregate balance of cash on hand. Questions have been raised particularly in the last few years about the appropriate amount for a Cable Board fund balance. This led to creating a policy that rationalizes the amount that should be maintained in the fund balance.

As a result of implementing the Fund Balance policies, a significant administrative grant will be paid to the member communities. Heldt commented on the historical analysis undertaken and how the proposed policy will separately account for PEG and Franchise fees and expenses. The proposed policy on franchise fees and administrative grants will be applied during next fiscal year’s audit review, with a specific percentage of income being distributed to the municipalities. Questions from members regarding the practices and policies were addressed by Heldt and Attorney Currier.

Roll Call Vote:  
Motion passed (9 – 0).

Administrative Grant to the Communities

Based on the adoption of the Fund Balance policy, Heldt proposed approval of an Administrative Grant in the total amount of \$521,607.65 to be refunded to the member communities as a percentage of their Franchise Fee contributions.

Motion by Heldt, second by Linsenman, that the Birmingham Area Cable Board approve an Administrative Grant to be returned to the member communities in the following amounts:

Birmingham	\$324,244.00
Beverly Hills	128,028.13
Franklin	46,275.85
Bingham Farms	<u>23,059.67</u>
Total	\$521,607.65

Roll Call Vote:  
Motion passed (9 – 0).

Budget Amendments

Motion by Linsenman, second by Borgon, to amend the 2013/14 Cable Board Budget as follows: 1) Increase the amount of Professional Fees from \$6,750.00 to \$11,400.00, and 2) Increase the \$50,000 budget for Municipal Support Services to \$60,000.00.

Roll Call Vote:  
Motion passed (9 – 0).

BACB Annual Report

White stated that copies of the Birmingham Area Cable Board Annual Report for fiscal year 2012-13 have been distributed to the Board. She asked that members contact her with any questions.

McLain read the opening remarks from the Annual Report. We continue post-2006 Michigan Public Act 480 with varying degrees of competition for cable, internet and phone in our consortium. Comcast/NBCU, as incumbent, is still the only provider to offer service in all four of our communities. As first overbuilder, WOW! wired Birmingham and Beverly Hills in 2011 and has not expanded any further in our area. AT&T continues to offer their U-Verse internet protocol package and hybrid satellite/internet service to a number of our residents. The legislators have not updated guidelines for buildout or disclosure for any providers. In effect, competition is still not available to all of our residents as was prescribed by previous local franchise agreements.

Congresswoman Tammy Baldwin (D-WI) and Congressman Steve LaTourette (R-OH) yet again reintroduced the Community Access Preservation (CAP) Act to address challenges faced by public, educational and government access (PEG) TV channels and save jobs across the country. In theory, the CAP Act will allow communities to use PEG funds to pay salaries and other

operating costs as well as capital equipment improvements. The future of this proposed legislation is uncertain given the current governmental climate.

With economic and social changes in the air, our Board has lost some experienced members and is delighted to welcome new municipal appointments with valuable expertise and experience.

**PROVIDER RELATED TOPICS**

There were no provider representatives present at today’s meeting. McLain stated that she will be contacting the Comcast escalation team regarding pending subscriber complaints.

**BAPA/BAMA REPORT**

General Manager Greg Kowalski highlighted programming outlined in the written report from Bloomfield Community Television 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 December 18, 2013 – January 14, 2014).

The next camera workshop is scheduled for Wednesday, January 29th, 2014 from 10:00 am to noon or 6:30 pm to 8:30 pm. Interested individuals can call 248-433-7790 to sign up. Kowalski remarked that BCTV hosted a Tiger Cub Scout studio tour before the holidays.

**OLD BUSINESS**

None

**NEW BUSINESS**

None

**PUBLIC COMMENTS**

None

**BOARD COMMENTS**

None

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

## MEMORANDUM

DATE: February 12, 2014

TO: Board Members

FROM: Cathy White

Re: Monthly Report

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### CUSTOMER COMPLAINTS

Two complaints that were pending on the date of our last meeting have been resolved. Complaint No.2014-2 involved a Franklin resident who was offered Comcast service at a promotional rate but was later informed that the monthly cost would be higher. He felt Comcast had engaged in a “bait and switch” practice. Comcast representatives indicated that he had received an e-mail in error by their e-mailing system and reduced his monthly amount to what he was originally promised. This complaint is now closed.

Complaint No. 2014-3 involved a Birmingham resident whose Comcast service was not working. Her service has now been restored, a billing adjustment was made and this complaint is closed.

There have been six (6) new complaints since the date of our last meeting. Complaint No. 2014-4 was submitted by one of our Board members who had two questions: Why couldn't he watch a channel he had paid for (Business Class TV Standard Account) and why did Comcast tell him he was using an incorrect password when in fact it was correct? A Comcast representative contacted this Board member to explain that the feature he was trying to access does not come with Business Class TV service. This complaint is now closed.

Complaint No. 2014-5 was a follow-up to an earlier complaint regarding a promised billing adjustment by WOW! The adjustment was made and this complaint is closed.

Complaint No. 2014-6 was submitted by a Birmingham resident who had previously received five (5) channels and then was unable to access these channels. A Comcast representative informed the subscriber that he was not originally supposed to have the channels. He was offered a promotional rate with an upgrade to be able to view those channels but he declined. This complaint is now closed.

Complaint No. 2014-7 concerned a Birmingham resident who had a Comcast technician out to her house to fix a cable problem and when the technician left she had no phone service. This was deemed a health and safety issue for this senior citizen. Comcast found that she had defective internal wiring and fixed the problem. Her services are all working and an adjustment was made to her bill to cover an entire month of all of her services. This complaint is therefore resolved.

Complaint No. 2014-8 was submitted by a Birmingham resident who has a problem with his Comcast internet service going down multiple times per week. This complaint is pending.

Complaint No. 2014-9 involves a Beverly Hills resident who recently switched to Comcast and has had trouble getting a channel line-up for her area. Comcast representatives have now sent her the appropriate channel line-up and this complaint has now been resolved.

#### FINANCIAL

The account balance for the MBS, BBCU and Beverly Hills accounts will be provided via hard copies at the meeting, together with budget to actual figures. Please note that the balances provided are as of January 31, 2014 and the BBCU account reflects a wire transfer deposit of \$521,607.65. This amount was disbursed to the four communities as administrative grants on February 1, 2014.

#### CHECK DISBURSEMENT

Since the date of our last meeting, I have written thirteen (13) checks as follows:

1. Birmingham Bloomfield Credit Union (Visa) (office supplies & Chamber event) \$85.00
2. B & H Photo-Video (equipment) \$899.00
3. B & H Photo-Video (equipment) \$4,809.19
4. B & H Photo-Video (equipment) \$1,546.25
5. B & H Photo-Video (equipment) \$1,619.00
6. Charter Township of Bloomfield (quarterly payment to BCTV) \$46,856.25
7. City of Birmingham (administrative grant) \$324,244.00
8. Village of Beverly Hills (administrative grant) \$128,028.13
9. Village of Franklin (administrative grant) \$46,275.85
10. Village of Bingham Farms (administrative grant) \$23,059.67
11. Charter Township of Bloomfield (coverage of 4 sporting events) \$10,000.00
12. Grass Valley USA, LLC (equipment) \$15,040.00
13. B & H Photo-Video (equipment) \$50.74

#### ADDITIONAL NOTES:

1. A new Board member roster is included again in this month's packet. This roster includes the correct ending date of Mel Ettenson's term and notes that Laura Broski's (Birmingham City Clerk) last name is now Pierce. It also includes contact information for the new Comcast representative for our area, Fred Eaton.
2. I will bring Board members hard copies of a Bloomberg article entitled "Cutting the Cord is a Cable Myth" to the meeting. This article notes that instead of eliminating cable, subscribers are simply switching to a different provider.

3. On March 19, 2014, the Birmingham Bloomfield Chamber of Commerce is hosting a Business After Hours event at the Maple Theater from 5:30 pm to 7:00 pm. If any Board member would like to attend, please let me know as soon as possible so that I can order the appropriate amount of tickets.

4. The Michigan Public Service Commission has issued its seventh annual report regarding the status of competition for video services in Michigan. This report is available on the MPSC website. Key findings from the report include the following:

~Prior to the Uniform Video Services Local Franchise Act (PA 480 of 2006), only 63 communities reported having two or more video/cable providers offering service. In 2013, two communities reported four providers; 28 communities reported having three providers; 81 communities reported having two providers and 243 communities reported having one provider. Thirty communities reported having no providers.

~During 2013, providers reported 2,338,067 video/cable customers in Michigan, an increase of 21,870 over what was reported the previous year. (This does not include subscribers to satellite services.)

~The Commission received 1,229 customer complaints and inquiries in the video franchise area in 2013, a 40% increase over 2012. The most frequent complaints were: billing, charges and credits; equipment service problems; and cable line issues.

~The MPSC made four recommendations to the legislature: extending the sunset date for PA 191 of 2009, which amended the Uniform Video Services Local Franchise Act (PA 480 of 2006), which provides for the MPSC to recover its actual costs in exercising its duties under the Act; changing the due date of the annual report to March 1 from February 1 to provide survey respondents more time to provide information to the MPSC; requiring providers to provide certain contact information to the MPSC; and requiring a provider to notify the Commission if it changes its name, goes out of business, or merges with another company.

5. We have received our annual dues notice from MI-NATOA. The cost is \$100.00 for an annual Chapter Membership and \$25.00 for an Associate Membership. I am requesting authorization to purchase a Membership for BACB (Elaine McLain as Chairman) and an Associate Membership for me for a total of \$125.00. The Board also needs to decide whether to make a voluntary contribution to the MI-NATOA Public Education Fund for this year. We did not make a contribution last year.

6. Comcast has notified us of certain channel changes as follows:

~As of January 29, 2014, CNBC (Channel 139) and CNBC HD (Channel 244/1115), MSNBC (channel 41) and MSNBC HD (channels 376/1108) and FX (channel 150) and FX HD (channels 224/1207) have been added to the channel lineup as part of the MultiLatino Max and MultiLatino Ultra services .

~Telemundo (channel 611) will be available on Digital Starter service.

~On March 5, 2014, El Rey (channel 120) will be available on Digital Preferred service.

~HSN 2 (channel 75) is now available on the Limited Basic service.

7. Comcast has notified us, pursuant to P.A. 480 of 2006, Section 9 (4), that Comcast Cable's local operating entity does not deny access to services to any group of potential residential subscribers because of the race or income of residents in the local area.

8. The U.S. Supreme Court will hear the ABC v Aero case on April 22, 2014 which involves the application of the Copyright Act to streaming of free broadcast TV programs via the Internet to paying customers. Aero retransmits broadcast signals to mobile devices via cloud-based storage at a cost of \$8 for 20 hours a month and \$12 for 60 hours. Broadcasters have sued because Aero does not seek to secure retransmission consent for the TV signals it offers to subscribers. Injunctions to shut down the service have been denied in the lower courts.

9. We have received our annual dues notice from the Birmingham Bloomfield Chamber of Commerce. I am requesting authorization for payment of the amount of \$175.00 for these annual dues.

10. Comcast has announced that it is acquiring Time Warner Cable in an all-stock deal worth more than \$44 billion. The surprise merger will unite the biggest and second largest television operators in the country.

11. The Board's mileage costs will be reduced on a per mile basis in 2014. The new IRS mileage rate is ½ cent less per mile than in 2013.

12. The Mayor of the City of Livonia (where I reside) has appointed me to the Livonia Cable Commission. I will begin my term in March, 2014.

# Memo



To: BACB  
From: Steve Rota  
cc: Greg Kowalski, Cathy White & Elaine Mclain  
Date: 2/12/14  
Re: Report January 15th, 2014 through February 19th, 2014

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## **BAMA Programs**

During this time period we completed six regularly scheduled municipal meetings, Two Baldwin Public Library Board Meetings and the BACB meeting.

## **In Studio**

County Corner hosted by Marcia Gershenson.

## **On Location**

Baldwin Public Library Lecture.

## **BAPA Programs**

From BACB area individual producers and organizations we've taped 33 programs. From individuals:

- ❖ Three *Graceful Aging* hosted by Greg Bator.
- ❖ Five *Spectacles* hosted by Betsy Laboe and Ellen Rogers.
- ❖ Seven *Eye on Oakland* hosted by David Potts and Chuck Moss.
- ❖ Three *Michigan Entrepreneur's* hosted by Tara Kachaturoff.
- ❖ Three *Making a Difference at TCH* hosted by Camille Jayne.

From BACB area organizations:

- ❖ First Presbyterian Church - *Lunch & Learn* Lecture.
- ❖ Birmingham Bloomfield Community Coalition - *Band Jam*.
- ❖ Race Relations & Diversity Task Force – *22<sup>nd</sup> Annual MLK Breakfast*.
- ❖ Birmingham Youth Assistance and BPS – *33<sup>rd</sup> Annual Kids' Dog Show*.
- ❖ *Birmingham Bloomfield Symphony Orchestra*.
- ❖ *Birmingham Concert Band*.
- ❖ *Birmingham Musicales*.
- ❖ Birmingham Bloomfield Chamber - *Economic Forecast Lecture*.
- ❖ Main Street Franklin - *Small Town Design Initiative meeting*.
- ❖ BACB Sports *Wrestling*.
- ❖ BACB Sports *Boys Basketball*.
- ❖ BACB Sports *Ice Hockey*.

## **CAMERA WORKSHOP**

We had seven residents attend our camera workshop. Our next camera workshop has been scheduled for Tuesday, April 8th, 2014 from 10:00 AM to Noon or 6:30 PM to 8:30 PM. Call 248-433-7790 and sign up today!

## **PROGRAM DEVELOPMENT COMMITTEE**

We are waiting to hear back from a few volunteers before we schedule our next PDC meeting.

## **TIGER CUB STUDIO TOUR**

We have reserved two dates in March to host a studio tour for a couple Tiger Cub Scout troops.

BIRMINGHAM AREA CABLE BOARD MEMBERS  
FEBRUARY, 2014

CITY OF BIRMINGHAM 48009

JEFFREY HELDT

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3/30/16 (3/22/10)

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11/30/14

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