

## BIRMINGHAM AREA CABLE BOARD MEETING MINUTES – February 19, 2020

Present: Abraham, McLain, Shand - Birmingham  
 Delaney, Gugni, Henry – Beverly Hills  
 Mydloski – Franklin

Absent Eick, Fenberg– Birmingham  
 Burry - Beverly Hills

Also Present: White - BACB Executive Director  
 Currier – Attorney for Cable Board  
 Rota – Bloomfield Community Television

McLain called the meeting to order at 7:48 AM in the Village of Beverly Hills Municipal Building at 18500 W. Thirteen Mile Road.

McLain welcomed Shane Henry, the new member of the Board, who would be another Representative from Beverly Hills. He introduced himself.

**APPROVE MINUTES OF CABLE BOARD MEETING HELD January 15, 2020.**

Motion by Delaney, seconded by Gugni to approve the minutes of the Regular Cable Board Meeting on January 15, 2020 as presented.

Motion Passed (7-0).

**PUBLIC COMMENTS**

Don MacDonald, Beverly Hills, was present at last month’s meeting commenting on Comcast and WOW contractors. Since then he has received a letter from WOW thanking him for bringing his concern to their attention and indicating that they would get back to him. As of yet, WOW has not followed up. Regarding the easement issue with Comcast and with the help of White and McLain, he sent a letter to Comcast which replied back stating there was no issue and they considered the issue closed. (He passed around the letter.) He responded by sending an email to Comcast disagreeing as the company’s cable conduit was trespassing on his property and he would like this resolved. Last Friday he received a call from someone at Comcast who repeated that the issue was resolved and the company was not going to do anything about it and considered it closed. Since speaking with McLain and White, he has documented details of the events and a complaint will be filed with the MPSC (Michigan Public Service Commission). His concern was that this was setting a precedent that a company could come onto private property without permission. He continued by saying that no one from Comcast had even come out to see him or talk with him or even visit the property.

Currier commented on the MPSC process regarding complaints. McLain complimented MacDonald on his documenting all the contacts and conversations and on the fact that he had taken photos. The next step would be for MacDonald to submit all the information directly on the MPSC website.

**APPROVAL OF PAYMENT OF ADMINISTRATIVE GRANTS FOR FY 18-19**

In Fenberg’s absence, White explained his document, “Review of Franchise fees and Board Expenditures, Calculation of Administrative Grants”. A few years ago the Board adopted a policy

## BIRMINGHAM AREA CABLE BOARD MEETING MINUTES – February 19, 2020

for the allocation of Administrative Grants based on 95% of the excess monies (Franchise Fees minus Board Expenditures). White also noted that the listed Board Expenditures were only paid out of Franchise Fees and not the expenditures which come out of PEG Fees.

Mydloski corrected the listing for Franklin. It should be “The Village of Franklin”, not “Franklin Hills”. McLain corrected “Bingham Farms” which should be “The Village of Bingham Farms” and “Birmingham” should be “The City of Birmingham”.

Motion by Mydloski, seconded by Shand to approve allocation of Administrative Grants for FY 2018-2019 to the City of Birmingham, the Village of Beverly Hills, the Village of Franklin and the Village of Bingham Farms, as stated and corrected in Fenberg’s memo dated February 19, 2020.

McLain clarified for the residents that this re-allocation and realignment of excess Franchise Fees is outlined in paragraph 5 of the Inter-Local Agreement which was created in the early 1980s and has been updated with several policies. She also pointed out that some communities’ allocations went up and some went down which relate to the number of people who continue to be subscribers, change providers, cut the cord or decrease/increase services, as well as some population changes McLain also added that one of the factors may be that some of the providers have slowly increased the prices for the same services. White clarified that Board Expenditures listed in the report are only paid out of Franchise Fees. There are other expenses which are paid out of PEG revenues.

After a discussion about the equation used for the allocation to each community, the question remained, how does BACB know what is contributing to the changes in each community’s Franchise Fee revenue? Bottom line, the Board must use the numbers the providers reported and trust their dollar amounts for Franchise Fees are accurate. Currier had a brief explanation of the two (2) ways to check on the Franchise Fee revenues: 1. Performing a Franchise Fee Review (Currier’s firm has conducted three (3) of these for the BACB) by using the income information given by the providers and determining if the Franchise Fees and PEG Fees were calculated correctly and 2. The second way entails a special audit (which is beyond the capabilities of Currier’s firm) performed by an independent firm, such as Plante Moran, to investigate the accuracy of the actual information the providers have given BACB. The cost of such an audit is substantial; therefore, BACB must make a decision if the recovery amount is substantial enough to justify the price.

Because the revenue stream is currently of some concern, McLain stated that she would like BACB to have discussions and plans about maintaining a reasonable fund balance in case of an emergency for the upcoming fiscal year.

Responding to Delaney’s question about determining how much Administrative Grant money each community would be allocated, White explained that the amount going to each community was based upon the percentage of the revenue number (Franchise Fee) of each community to the combined total revenue numbers (Franchise Fees) of all four (4) communities. These numbers are independently calculated by McLain, White, and Fenberg who is the BACB Treasurer and a

## BIRMINGHAM AREA CABLE BOARD MEETING MINUTES – February 19, 2020

CPA, and then looked at one more time. When checks are to be distributed to the different communities, McLain hand delivers them.

As a reminder, the BACB does not get revenue from those households who stream shows or use satellite.

Motion Passed (7-0).

### **COMMITTEE REPORTS**

#### **Cable Action Committee**

CAC had a meeting on February 6 at 4:30 PM at the Library. Abraham reported that he and McLain met with two (2) representatives of Muniweb, the company who developed and manages the BACB website. They had discussions about the need for particular items to be easily accessible, i.e., the videos and the minutes of the meetings. They had some other suggestions about how to make the website easier to navigate, particularly on smaller devices. Abraham personally checked and found that all of the suggestions had already been implemented.

Google Analytics and its important capabilities were talked about at the meeting and Muniweb sent a follow-up letter to White with some information.

The next CAC meeting will be March 5 at 4:30 PM at the Birmingham Baldwin Public Library.

#### **PEG Committee**

Mydloski stated there had not been a meeting last month but one would be held immediately following this meeting. For Henry's benefit, McLain explained the purpose of the PEG committee and that its meetings were open to all BACB Board members.

#### **Personnel Committee**

Gugni reported that the committee has prepared a new streamlined evaluation form to be used in evaluating the Executive Director. The form would be sent out to the entire Board to be returned as soon as possible. The entire process is usually completed in April. The committee consists of himself, Fenberg and Mydloski.

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

White referred to her monthly report dated February 13, 2020. There were four (4) complaints since the date of her last report. The first two complaints were from MacDonald, a Beverly Hills resident who attended this morning's and last month's meetings about the issues with Comcast and WOW. The third (3<sup>rd</sup>) complaint came from a Birmingham resident questioning why his Comcast bill had increased in the last two (2) months. White explained the across-the-board increases but the resident said his bill went up even higher the second month. This complaint is pending. The fourth (4<sup>th</sup>) complaint was from a Birmingham resident who had reluctantly agreed to a one (1) year contract with Comcast which, according to her bill, was not the agreed upon price. Additionally, she had been promised a credit for service interruption and aggravation. An escalation team member spoke to her and explained the price increases and confirmed that her credits were on the current bill. As a courtesy, Comcast gave her a monthly discount through November, 2020. This complaint was closed.

McLain had some comments and observations on the third (3<sup>rd</sup>) complaint about the increase in a Comcast bill for a couple months in a row. She explained that sometimes the PEG and Franchise fees can fluctuate slightly from month to month and are usually less than 10% of the total bill. Also, if the customer has a year-long contract or a special price and it expires, the bill will suddenly go up. Mazurek, the Comcast representative, always advises customers to read all pages and all sides of the bill. Further, at least one (1) month before a price increase, the provider will post an alert, showing the current amounts and the new amounts. Regarding the fourth (4<sup>th</sup>) complaint, she, personally, worked closely with the resident on this issue. This particular resident has actively been trying to resolve this problem since late September, 2019. As of two (2) weeks ago, it still had not been resolved. Referring to an increase in the billing, McLain read into the record a comment from the Escalation Team: “If you currently have a promotional offer or a minimum term agreement with your services, those prices will stay the same throughout your promotional period or contract term. However, equipment charges, charges for additional features, taxes and other fees, including the broadcast TV fee and regional sports network fee may change. When your promotional offer or contract term ends your bill will reflect our new package prices.” She and this particular resident are still waiting for a clarification. She will be reaching out to Mazurek to make sure that when residents agree to a multi-year contract they understand which are fixed fees and which fees were variable. The consumer should know these facts before agreeing to a contract.

### **FINANCIAL**

Financial information for MBS, BBCU and Beverly Hills accounts as of January 31, 2020 was emailed to all Board members. Hard copies of this information were also provided at the meeting.

Since the last Board meeting White has written five (5) checks on behalf of the BACB. Of those five (5) listed, there was a large amount to Advanced Lighting & Sound which the Board authorized for the purchase of equipment and one to Charter Township of Bloomfield for the contract with BCTV for the January 2020 sports coverage.

### **ADDITIONAL NOTES:**

White provided a new BACB Board Member Roster. A new current roster will be given out next meeting which will include the new BACB Board Member, the changes in contact information, the name of the new Franklin Interim Administrator, and a correction of the listing for the Birmingham Clerk.

The Board has spoken about the new FCC rule which will impact the franchise fees and how they are calculated. She explained the new Act, Protecting Community Television Act and how, at the legislative level, it would protect the cable franchise benefits that have been threatened by the new FCC Order which defined “franchise fees” to include cash payments and non-cash franchise obligations. Municipal groups have tried to get a stay of the Order; however, the FCC did not do that. But it did clarify the Order and indicated that cable operators and local franchising authorities have a reasonable amount of time to resolve what would be non-franchise financial obligations. The FCC stated that 120 days to achieve that was considered a reasonable amount of time. It was also indicated that if negotiations failed, the parties could continue to rely

## BIRMINGHAM AREA CABLE BOARD MEETING MINUTES – February 19, 2020

on the remedies that may be contained in their franchise agreement or that were otherwise available, i.e., take the dispute to court or to the FCC. The important thing is that the FCC was not authorizing the cable companies to engage in self-help and unilaterally reduce fees. There has to be dialogue between the community and the cable providers.

The subject and issues surrounding the subject of “public right of way” have been discussed in terms of it being valuable property belonging to the municipal groups that hold it in trust for tax payers. Many times private companies will argue they need free access to the rights of way, claiming they would be making vast infrastructure improvements for everyone. For the purpose of these improvements, spending by the providers is actually down: AT&T is down 13%, Comcast is down 12-14% and Charter is down 20%.

She provided some Comcast programming changes; however, when these changes are made some of the older equipment will not be able to support the upgrades and those devices will need to be replaced. She noted that Comcast will swap their equipment at no cost and expects the number of impacted customers to be very minimal.

Dovetailing with White’s discussion about the new FCC rule threatening the funding for community programming, McLain referred to an article in a Minnesota Star Tribune article, “New FCC rules threatens funding for community TV programming” written by the Politics and Government reporter, Briana Bierschbach, on February 18, 2020. McLain quoted from the article: “The move is part of the broader effort from the FCC to get the same cable companies to expand broadband access in rural communities by cutting back on regulations.” FCC Chairman Ajit Pai was quoted in the same article: “Every dollar paid in excessive fees (his interpretation) is a dollar that by definition cannot and will not be invested in upgrading and expanding networks.” This is important because as an inter-local organization of four (4) communities, the BACB sees this very, very differently. The hyperlocal focus, sharing and transparency of local governmental processes are critical. This article will be sent out to all the Board members and she will put a link to it on the front page of BACB’s website, Ask the Cable Lady.

According to White, Comcast has notified her that a new Southfield store will be opening up. She will provide more information, location and what the plans are at the next month’s meeting.

### **PROVIDER RELATED TOPICS**

No representatives from the providers were present; however, White is in constant contact with them. She will be reaching out to the providers asking for clarification as to how residents are notified if they agree to a contract, what they agree to and the ending date of the agreement. Residents must remember that once an agreement expires there is no guarantee it will be offered again.

#### **a. Comcast**

There was no representative present.

#### **b. AT&T/Uverse/Direct TV**

There was no representative present.

**c. WOW**

There was no representative present.

For the clarification of the public, Mydloski, who lives in Franklin, received a WOW postcard ad in the mail. WOW is not available in the Village. McLain suggested she call WOW and explain that WOW has not expanded into Franklin.

**BAPA/BAMA REPORT**

Rota referred to his memo to BACB dated February 13, 2020. He listed the completed **BAMA** Programs which were eight (8) regularly scheduled municipal meetings, the BACB meeting, the Parks and Recreation Board meeting, the Zoning Board of Appeals meeting, Advisory Parking Committee meeting, the Multi-Modal Board meeting, Bingham Farms Council Meeting, two (2) Baldwin Library Board Meetings and a Special Village of Franklin Council Meeting..

For the **BAPA** Programs, from the BACB area individual producers and organizations, twenty-nine (29) programs were taped, all of which he listed.

Girls Hockey will be covered this Sunday and will be the end of the winter sports schedule.

**PRODUCER and/or VOLUNTEER WORKSHOP** - BCTV is offering a one-on-one session for those who are interested in producing their own show and for those who want to volunteer and experience “behind the scenes”, as well as do some programming. Please call 248-433-7790 and BCTV will schedule a date and time for you. He encouraged all new Board members to come check out BCTV.

Last week, Tuesday and Wednesday, the new equipment was installed in the Village of Franklin Council room. Advanced Lighting and Sound installed the robotic cameras and TriCaster switcher which is the same as in all the municipalities.

Last December the Board approved the purchase of the focus and zoom controllers for the cameras and video monitors for the cameras in the truck. All have been received. The ENG (electronic news gathering) equipment, which was also approved in December, will be ordered as soon as possible.

Last month they were in need of a new server/playback system. The Board requested they go out for three (3) bids which they did. This was an emergency product and two (2) of the three (3) were not able to meet the deadline but Advanced Lighting & Sound could. He further explained the difficulties the other two (2) vendors had in trying to fulfill the request. The installation of the playback/server should occur next week. With it residents will be able to go on Roku and Apple TV.

**OLD BUSINESS**

McLain stated that she was unable to go to the ACM meeting in California. She had wanted to go and attend the Alliance for Community Media “West Region” conversation about how to

BIRMINGHAM AREA CABLE BOARD MEETING MINUTES – February 19, 2020

develop secondary revenue streams; however, it appeared to be too expensive. She will contact people who were there to brief her on what was suggested.

An Alternate Representative was still needed from Beverly Hills, two (2) Representatives from Birmingham and one (1) Representative from Bingham Farms.

**NEW BUSINESS**

None

**PUBLIC COMMENTS**

None

**BOARD COMMENTS**

There being no further business, the meeting was adjourned at 8:55 AM.