

**Cable Advisory Board  
Minutes  
Special Meeting, March 19, 2007**

**Board Members:**

**Present:** Jonathan Rehm, Stuart Long, Jim Johnson, Donna Behlen, Laurie Lee, Scott Young

**Absent:** Herb Friedman (Unexcused)

*(Note: Four vacancies currently exist on the Board; two are likely to be filled on March 26, 2007)*

**Others Present:**

**Time Warner Cable Representatives:** Ann Shrewsbury, Dick Cassidy, John Pokojski

**City Staff & Others:** Diane Gonzolas, Connie Guillaume, Steve Huggenberger, Jonathan Cook

**Others Present:** Jeff Korbek, Herb Schimek, Art Zygielbaum, Nancy Larimer, David Jespersion, Erika Summers, Kevin Thomas

Chair Jonathan Rehm called the meeting to order at 4:10 p.m. Board members introduced themselves.

Chairman Rehm read the text of city resolution A-84269, item (3), a resolution which had been passed by the City Council and signed by the Mayor, directing the Cable Advisory Board to examine certain aspects of Time Warner Cable's Navigator service and any other technical or customer service issues that might be determined to be relevant to the problems that subscribers are having with the Navigator service.

Chairman Rehm then asked Board members to go around the room and indicate what they would like to see emerge from this process, followed by the same questions to representatives of the City and representatives of Time-Warner Cable which were in attendance.

**Responses from members of the Cable Advisory Board**

Jonathan Rehm started. He would like to see Time Warner Cable be forthcoming with information about the problems that they're having. He would like a report on how many customer complaints there have been, and information on whether those complaints have been resolved fairly; for instance do some people get an offer of a free premium channel for a period of time whereas others get an offer of a credit to their bill. He would like to know the status of the current upgrade. He wants to find out what legal options the City would have. He would like to know what type of information we can get.

Stuart Long said we're at the beginning of a process; he wants to make sure that we figure out what the facts are; gather information etc; as we progress we might come across information that will take us in directions that we can't yet anticipate.

Jim Johnson said that first priority should be getting the problems fixed as soon as possible. He threw out a suggestion to Time Warner Cable that they might think about "letting the market decide"; if subscribers want the Caller ID on TV and other features that TWC promises are coming down the line, then let them do that at whatever cost TWC thinks is fair; if other subscribers prefer the Passport equipment then let them have it, and TWC would pass through the cost for the Passport equipment, at whatever rate Passport's manufacturer thinks is fair.

Donna Behlen would like to see statistical information on service calls; how many subscribers have called, how many complaints were resolved.

Scott Young wants to know what we can do to move the process to a resolution. What recourse does the City have? How much impact does the Cable Board have on the process?

Laurie Lee wants to know where the process is at now. What time frame will it take to get the problems resolved? Are there differences in how the equipment responds to different equipment, i.e. do people with HDTV or DVRs experience the same problems or different problems, and is the frequency of problems similar or is it dependent on the other equipment in the entertainment center? She wants to know how TWC can address the situation equitably. Some people may be OK with free use of a premium channel such as HBO for a period of time, others may not see that as a benefit, and they may not even want to have HBO as an option if there are children present. She would like a discussion of the how to compensate people fairly.

Following the discussion by Board members, others were invited to join in the discussion.

**Responses from Representatives of the City**

City Council member Jonathan Cook said that we may want to consider a public hearing, preferably in an evening so that people can attend. Jonathan is interested in finding out how the impact to cable subscribers has been handled. How many people have been affected? For a time, it appears that TWC was running both the Passport and the Navigator systems; would that be an option available to them if some subscribers preferred the Passport while others prefer the Navigator? What kind of compensation has been given, and what kind of compensation is still due? Jonathan said that the Board may want to consider hiring an outside expert on cable television issues.

Assistant City Attorney Steve Huggenberger said that there is no limitation under the current franchise agreement on what the Board can look at. However, Time Warner could choose to not answer some questions if they involve proprietary information. For instance they could probably claim that software code is confidential and not open to Board investigation. Also we probably can't require them

to tell us how much money comes from rental of the Navigator equipment. We can't require a rate reduction, though we can recommend one to Time Warner. We can't require refunds or credits to customers who had problems, however we can recommend such action to Time Warner. Steve volunteered to act as the central collection point of Board questions for Time Warner. He'll combine similar questions and forward them to TWC, as well as to members of the Cable Advisory Board and other interested parties.

### **Responses from Time Warner Cable**

Ann Shrewsbury said that she had called ahead to see if they could prepare anything for this meeting. She was told that the purpose of the meeting was to plan a schedule for the investigation, and that no specific information was needed from Time Warner at this time. Ann said that it would be best for questions to be submitted in writing, through Steve Huggenberger, so that Time Warner Cable can forward them to TWC employees that can answer them. Ann said that Time Warner Cable is hoping for a swift resolution. Although she thinks that the media has overplayed the problems, she said that TWC wants the problems to be resolved as quickly as possible. They intend to work with the Cable Board and answer our questions.

### **Responses from the Public**

Art Zygielbaum (speaking as an individual – he's been nominated to the Cable Board but has not yet gone through the confirmation process) said that he has concerns about how the Navigator was rolled out in Lincoln vs how it was rolled out in other cities. He wants to make sure that Lincoln's cable subscribers have been handled correctly.

### **Setting up a Public Hearing**

Jim Johnson moved, Stuart Long seconded that we schedule an evening hearing sometime in the coming month, to see if members of the public have any comments that would be relevant to our investigation of the problems. Laurie Lee said that it might be difficult getting people to come out; the current meeting had been quite well publicized and we hadn't gotten a lot of members from the public. Diane Gonzolas said that the current meeting had been publicized as more of a setup meeting than an actual time for a hearing. Stuart Long made a friendly amendment that we ask the City to provide a phone number and e-mail and snail mail addresses to send comments. Jim Johnson accepted that as a friendly amendment. Stuart Long said that we should start collecting data sooner than just within a month; people are anxious to get this resolved as quickly as possible. Donna Behlen agreed. Diane Gonzolas said that setting up a dedicated phone line would cost about \$30 for a month; the other items would not have associated costs.

Laurie Lee asked what we expect will come out of the hearing. Jonathan Rehm said that it might give us an opportunity to see if anything has been resolved for the subscribers, and they would have an opportunity to suggest solutions or remedies for their Navigator problems. Ann Shrewsbury said that Time Warner Cable could provide information on that. Donna said that would be good, however she has talked to people that have just given up talking to TWC customer service because they're tired of the process. She thinks the hearing may offer a way to be sure that such people can have their voices heard. Stuart Long said that the question of why should we hold a public hearing goes along with the question of why is the Cable Board here. We need to find out what's on people's minds.

Donna Behlen moved to end debate, which passed 6-0. Vote on the main motion passed 6-0.

We then discussed the timing of the hearing. General sentiment was to hold the hearing sometime during the week of March 26-30. Ann Shrewsbury had a conflict for the 29<sup>th</sup> and respectfully requested that we not schedule it for that night. Jim Johnson pointed out that there is an evening City Council meeting scheduled for March 26 so that would not work either. We settled on Tuesday, March 27, at 7:00 p.m. in City Council chambers.

### **Watching the Navigator**

Jim Johnson requested an opportunity to see the Navigator in action; he doesn't have the digital tier so has not had an opportunity to see it work. Ann Shrewsbury suggested that we could take our already scheduled time of Thursday afternoon the 22<sup>nd</sup> from 4:00 to 6:00, which had been looking like it might not be needed anymore, and come down to the Time Warner Cable where she could show us how it worked. Stuart Long said that it would be better to have the demonstration at the City-County Building rather than at TWC. This was the general consensus. Therefore we will have a meeting on Thursday, March 23, 4:00-6:00 p.m. in the Mayor's Conference Room, at which we will see a demonstration of the Navigator.

Besides the 23<sup>rd</sup> and the 27<sup>th</sup>, we also set up a followup meeting for April 4<sup>th</sup>; at that time we will discuss what we've learned and we will determine where we want to go from there.

### **Adjournment**

Donna Behlen moved, Stuart Long seconded that we adjourn. Motion passed 6-0.

**Cable Advisory Board**  
**MINUTES**  
**Special Meeting, March 22, 2007**

**Board Members:**

**Present:** Jon Rehm, Stuart Long, Jim Johnson, Donna Behlen, Herb Friedman, Laurie Lee, Scott Young

**Absent:** None

*(Note: Four vacancies currently exist on the Board; two are likely to be filled on March 26, 2007)*

**Others Present:**

**Time Warner Cable Representatives:** Dick Cassidy, John Pokojski, Ann Shrewsbury, Bruce Ubben, Andy Chaves

**City Staff & Others:** Diane Gonzolas, Connie Guillaume, Steve Huggenberger, Jonathan Cook

**Others Present:** Art Zygielbaum, Steve Kiene, Deena Winter

Chair Jon Rehm called the meeting to order at 4:05 p.m.

Minutes from the meeting of March 19 were distributed. After reading them, Herb Friedman moved approval, Donna Behlen seconded. Motion passed 7-0.

**Demonstration of Navigator System**

Ann Shrewsbury introduced the Time Warner Cable TWC employees who were present and available to answer questions. Dick Cassidy is in charge of Customer Service. John Pokojski is in Engineering and has 27 years of experience. Bruce Ubben is an employee trainer; new to the Lincoln division though he's had experience in other TWC divisions.

Bruce Ubben from TWC led us through a tour of the Navigator System.

Mr. Ubben said that generally there are two types of converter boxes being used in the Lincoln area; a single tuner box and a dual tuner box. The Navigator guide is intended to be used for both types of boxes.

He said that the guide can display programs up to seven days in the future, from which Cable subscribers can choose to DVR. He contrasted this with the scrolling TV Guide channel available to Full Basic cable subscribers, which lists programs but has no functionality.

Mr. Ubben showed us the Parental Control feature. One can either block channels based on content ratings or else based on more specific criteria such as Violence or Strong Language. He said that a lot of customers enjoy the availability of more specific options.

Mr. Ubben showed us the "Sort By Favorites" option. He said you can mark specific channels as favorites, and then when you do the sort they all show up at the top of the list, above Channel One. Jim Johnson asked about the speed; he had heard from a friend that when sorted by favorites the system was slow when scrolling up one show at a time. Mr. Ubben did that; having already gotten to a higher channel he had to page back a screenful (four shows) at a time but when he got back to Channel One he did an individual scroll, and it appeared to not take as long as Mr. Johnson's friend had mentioned it was taking. Ann Shrewsbury did say that she thinks this problem had been there as part of the more general latency problem which Time Warner Cable now thinks they've fixed. In fact she'd had latency problems on her own set; she said that she switched out her old box and her system no longer has a latency issue.

Herb Friedman asked what the principal complaints have been with the new Navigator system. Ms. Shrewsbury said that Time Warner Cable is working on a report to the Board, which will give the statistics; however it's not yet ready. She did say the latency issue was a big problem, but is now solved. In response to a question from Mr. Friedman about the definition of "latency," she clarified that this is the term which Time Warner Cable uses to describe what people refer to more informally as "slowness" or other similar terms. Diane Gonzolas said that she has the system in her home; they had had Passport before and had to do the switch, and she feels that the new Navigator has lost a lot of the intuitive features that she was used to. She thinks the less intuitive user interface is probably a big contributor to the complaints about the system.

A question was asked about the timeline of the product's introduction to the Lincoln market. Ann Shrewsbury said that TWC is working on a comprehensive timeline in response to a question asked at the March 19 Cable Board meeting; that timeline is not yet available but will be distributed to the Board when completed. She said that generally TWC employees started using it in June, and it was introduced into some subscriber homes beginning in August, with the last boxes converted in December. (Date of introduction varied depending on the subscriber's type of set top box.)

Bruce Ubben continued the demonstration with a discussion of the Navigator's DVR capabilities. He said that it can pause live TV; it will store up to an hour. It records from the beginning of the show. User can record live TV, and can set to record up to 7 days in the future. User can set it to not delete specific recordings. User can adjust the ending times to end up to two hours after the scheduled end of the show (to accommodate schedule changes that occur

because of sporting events or other unplanned changes.) User can choose to record all episodes, or only new episodes, or only an episode which airs at a specific time. (The "new episodes" and "specific time" options were not available in the original rollout; however they were added to satisfy customer input, and are now part of the Navigator system.)

Steve Kiene asked a question about the screen display of titles. He had looked at the system the previous night, and had noticed a listing of episodes of the same show. (Channel 8 news from different days, for discussion purposes) and could not determine which day of the week the show had aired. Mr. Kiene is a software developer, and he said that standard practice when titles get too long is for the software to display the first few characters and the last few characters, and put the ellipsis in the middle; the Navigator displays more up-front characters but omits the ending ones on long titles, so it's difficult or impossible to tell which episode is being referenced. He noticed that the day of week is now displayed next to the Channel 8 news options and asked if the version we were using was a live version; Ann Shrewsbury said that yes, this is what people currently have in their homes.

Bruce Ubben came to the point where he was going to introduce Caller ID on TV, and as he prepared to discuss that, a call came in and was displayed on screen. Caller was Dick Cassidy, one of the people in the room. Mr. Ubben showed us that Mr. Cassidy's name & number were displayed.

Mr. Ubben said that some functionality is device specific. With a dual tuner box, you can get "picture in picture" functionality where one picture is inset over the other. (Picture can be moved to any of the four quadrants of the screen.) If you have that functionality, you can change channels independently. However, if your DVR is active, you give up a channel for that and so cannot get "picture in picture."

He showed us that the "Help" button on the remote automatically changes the channel to "Answers On Demand," which allows you to get answers to your cable questions. Ann Shrewsbury said that digital subscribers are happy to have that service; she said that Lincoln subscribers are also glad to have Channel 101, "Lincoln On Demand."

Mr. Ubben showed us the Navigator's search capabilities. There's an on-screen keyboard that the user can use to select current shows, including movies or sports programs. Jim Johnson asked if one can accidentally select a show that's a pay-per-view, and if so can it be cancelled. Bruce Ubben said that it can't be cancelled on-screen. However, Time Warner Cable understands that sometimes shows are "fat-fingered" and tries to eliminate the possibility of accidentally ordering shows by encouraging subscribers to set up a "Purchase PIN" that must be typed in whenever a pay-per-view show is desired. He also said that if you accidentally order a show you can call the Time Warner Cable office and request that it be removed from your bill. Ann Shrewsbury said that it's also difficult to accidentally order a show, because there's a confirmation "Pay" message that pops up when you order pay-per-view. Mr. Ubben showed us the message.

Following the main demonstration, Time Warner Cable personnel answered questions from the Board and guests. In response to the question about why TWC changed from Passport to Navigator, John Pokojski distributed a fact sheet on the new OpenCable Applications Platform (OCAP) specification for middleware, which is intended to enable the developers of interactive television services and applications to design products that will run on any cable television system in North America, regardless of type of set top box or television receiver hardware. Mr. Pokojski said that TWC was driven by the standard to develop their own guide, the Navigator, rather than relying on the ability of Passport to get the job done. Two companies that are currently with TWC are Navik and BuyApp. The technology could eventually be used to allow applications such as Yellow Pages on TV, Voting and Polling, gaming, ordering food, getting weather & news.

Jon Rehm asked who developed the Navigator. Mr. Pokojski said that it was developed inside the company. Ann Shrewsbury said that it has already been deployed in Milwaukee and Kansas City.

Scott Young asked if TWC had to go to any great lengths to make the demonstration work, given the short timeline between our Monday afternoon request of a demo and the Thursday afternoon meeting. Bruce Ubben said that it had only taken about 20 minutes to set up.

Question was asked if the Navigator would work on every television or if it was equipment specific. Bruce Ubben said that there are televisions that won't work with it; in most cases those TVs probably wouldn't work with other program guides either.

Diane Gonzolas asked why TWC didn't let customers keep Passport until the Navigator was ready. Ann Shrewsbury said that question could be put on the list of questions which Steve Huggenberger is collecting for Time Warner Cable, however they felt that the Navigator was ready, and they still feel that it's ready.

Laurie Lee asked if there are upgrades planned for the immediate future. Answer is that small improvements are frequently being made (one just last night) and will continue to be made, but there is no specific large-scale upgrade

planned (as far as the TWC people present could tell us).

Jim Johnson referred to the fact that Beth Scarborough had testified at Council that top priority was to be given to the Navigator system's stability; he asked if the feeling is that the system is now stable. Ms. Shrewsbury said that they feel it is; with any software things could always change in a hurry but they feel that they've addressed the problems that were crashing boxes.

Jonathan Cook asked if there is information available about the customer service database. Dick Cassidy said that there will be information; when TWC receives specific question they'll work on getting a breakdown of the information that the board requests.

Scott Young asked Steve Huggenberger what process is going to be followed for the submission of questions to TWC. Mr. Huggenberger said that the process that he anticipates is that he will submit questions (copies sent simultaneously to Beth Scarborough and to the Cable Board), he will include a cover letter requesting a timeline on when questions will be answered, along with reasons why TWC feels that specific questions cannot be answered (if there are any refusals to answer some of the questions). This information will be distributed to the Board when Time Warner Cable responds.

Laurie Lee asked Time Warner on the schedule for rolling out wireless service. Ann Shrewsbury said that she currently anticipates that it will happen sometime between mid-July and the end of the year. She said that cell phone service is coming down the line as well; everything will be converging.

Dr. Lee commented on a problem; she said that if you press Fast Forward and then you stop, the old Passport would jump back eight seconds, whereas the new Navigator doesn't jump back. She said that with the old system, she'd had trouble getting used to it at first because the jumpback seemed counterintuitive; however she had since found it useful because it makes up for reaction time on the user's part. She would like to see it added to the Navigator's features.

Diane Gonzolas said that recorded shows had a problem at the end; if one recorded the show and didn't add the optional extra time, then it would cut off the last 30-60 seconds (coming attractions or whatever). Ann Shrewsbury said that this is now fixed.

Scott Young asked what the current cost of the Navigator is. Ann Shrewsbury said that the cost is \$6.95 for the digital tier, or \$3.95 for Full Basic users who just want to add the capability for music channels to their current service.

#### **Adjournment**

Stuart Long seconded to adjourn, Herb Friedman seconded. Motion passed 7-0.

Respectfully submitted,

*Jim Johnson*

# Cable Advisory Board Minutes

## Special Meeting/Public Hearing, March 27, 2007

### **Board Members:**

**Present:** Jon Rehm, Stuart Long, Jim Johnson, Donna Behlen, Herb Friedman, Laurie Lee, Herb Schimek, Scott Young, Art Zygielbaum

**Others Present and Speaking:** Rudy Anderson, Gail Seuss, Jack Robinson, Beth Scarborough, Jeanelle Kleveland, Will Kerns, Steve Kiene, Bill Korb, Frances Breedlove

Chairman Jon Rehm called the meeting to order at 7:00 p.m. Chairman Rehm announced that the main agenda item of the evening was to take public comments regarding the Navigator system that has been introduced by Time Warner Cable. He announced that the Board has been charged by the City Council to investigate problems that have been lodged by the public concerning the Navigator system.

Board members introduced themselves.

Chairman Rehm asked guests from Time Warner Cable to introduce themselves. TWC Public Affairs director Ann Shrewsbury introduced Beth Scarborough (President/General Manager), Trainer Bruce Ubben, and engineer John Pokojski.

Minutes from the special meeting held March 22<sup>nd</sup>, 2007 were read. Donna Behlen moved, Herb Schimek seconded approval. Motion passed 9-0.

### **Public Hearing**

*(Secretary's note: in the remainder of this document, Time Warner Cable will be abbreviated as "TWC"; Time Warner Inc will be abbreviated as "TWI"; Cable Advisory Board will be abbreviated as "CAB".)*

Chairman Rehm announced that there was a sign up sheet in the back for those who wish to speak. Public comments will be limited to five minutes.

Rudy Anderson from Lincoln thanked the CAB for taking the time to address the Navigator issue. He said that while there are more pressing issues in the community, this one clearly struck a chord with a lot of people. He quoted the TWC Web site as indicating that there are 7 million TWC digital customers and a total of 26 million subscribers in 33 states; TWI ranked 40<sup>th</sup> in the Fortune 500 for 2006, TWC ranked 1<sup>st</sup> in the entertainment category. He said that TWI had \$43 billion in revenues, more than enough to develop the software for a program guide to replace Passport. He quoted TWC's mission statement and values statement which indicate that TWC is committed to superior customer care, quality products, and a focus on customers' needs and interests.

Anderson has never been involved in a consumer issue such as this, and thinks he probably would not have been here tonight, had he not received two letters in January from TWC. One his monthly cable bill, the other a letter from Beth Scarborough at TWC. He said the letter indicated that Scarborough loved the Navigator. This prompted Anderson to write a complaint to her. He received a note from Scarborough, and a credit of \$53, which he appreciated. Anderson indicated that Scarborough indicated agreement in her letter with all his suggestions, and that in time all of them will be put in place.

But Anderson said to consider something. Imagine that you receive a letter from your car dealer that you will receive a new Ford Explorer. One morning you awaken and find that somebody has delivered a 1967 Bronco. It runs most of the time, will get you to work on occasion, is not as fast, has fewer options, will not start & stop nearly as well as your present car. And when you inquire, you are told to just be patient, you'll get used to it. He asked how you would respond to that. Mentioned that his monthly cable bill increased by \$4.70 at about the same time that he was switched over to Navigator.

Anderson has heard comments from Ann Shrewsbury at TWC that the furor has subsided, but he believes that the decrease in complaints indicates that people have either given up, gone elsewhere, or know that Councilman Cook is doing something about it. He suggests that Shrewsbury not get too comfortable with the numbers. To his knowledge there have been two software updates since mid-January; he's not impressed, nor are his friends. He believes that the Consumer Protection Division of the Attorney General's office should look into this.

Herb Friedman asked what specific problems Anderson was having. Anderson said that you can't search for specific programs, the guide drops programs, it is slow and you have to reboot frequently. Friedman asked if his position is that TWC has increased the price and decreased service; Anderson said yes. Laurie Lee asked Anderson if he had used the search figure recently, since the recent update. Anderson said he had used it this afternoon, setting his DVR to tape the CAB hearing. Elaborating on why he doesn't like the search feature, Anderson said that, this being near the end of the NCAA basketball season, he wanted to keep his eye on lots of basketball games. To do this with the keyboard search, he said he had to open up hundreds of folders to get the specific games that he wants. Donna Behlen asked how TWC came up with the \$53.70 credit, and is he satisfied with that. Anderson didn't know the reasoning, but is satisfied with the credit.

Art Zygielbaum asked what remedy would he advise. Anderson said TWC needs to admit they made a mistake, and he thinks that digital DVR customers should receive 50% of their bill as credit until the problems are fixed.

Gail Seuss from Seward spoke. She has had TWC service for less than a year; in that time she has changed boxes four times. The television freezes up, the guide freezes, recorded program freezes. Picture breaks up into little squares. Tech support has helped her reboot on numerous occasions. Programs have been dropped. She has given up on the searching; can't find anything with the keyboard search. About ready to drop TWC. Scott Young asked how many calls they have made to TWC; Seuss guessed that they've called about six times. Rehm asked if she's noticed any improvements, Seuss said no. Young asked if she had received any credits; Seuss said no. Rehm asked if she had asked for credits; Seuss said no. Stuart Long asked her opinion of the fair thing to do; Seuss said that TWC should drop the price. Lee asked if the four box changes had come since the introduction of Navigator. Seuss said that two of them had come before Navigator, the other two after Navigator. Zygielbaum asked if TWC had sent tech support to her home; Seuss said yes. Behlen asked if any of her neighbors have similar problems; Seuss said yes; a neighbor had similar problems, and she's switched to a satellite TV service.

Jack Robinson said that he's had problems similar to the others. Programs don't always record; one time they attempted to record a program but got a black screen when they played it; system rebooting spontaneously. He said that those types of problems have gotten better. He feels though that the searching is not as good as it was before. He's a big sports fan, and uses Picture In Picture (PIP). Under Passport the PIP window was small and nestled down in a corner, with a choice between two different sizes. However Navigator only has one size; Robinson said it's intermediate to the two Passport sizes and he finds it too intrusive, so he doesn't use it anymore. It doesn't meet his needs.

His primary complaint, though, is about the way that this software upgrade was handled. Robinson works for a company that creates and markets banking software. He said that if his company had done a software implementation like the Navigator, then the programmers that put it out publicly would have been fired, company would be facing lawsuits, because they would have not performed as promised in their contracts. He said that this is obviously a beta version, and it's OK to have a beta version but if you do that then you should warn the customers. He feels that it was a communications problem and a public relations disaster. Said it was not thoroughly tested before public introduction in Lincoln. He said that TWC should have set up a test of 100-200 homes or offices, and used it for a month or two; then they would have found the problems before releasing it to the whole community. Robinson said they were not professional, not businesslike, didn't do their job.

In terms of compensation, he suggested that maybe they need to lose their franchise. He thinks that's the only thing that they would really understand. Robinson said that he realizes that this wouldn't happen overnight; you can't just say TWC loses their franchise so somebody else step in. He said we need some kind of incentive for TWC to do a better job; he said that possible loss of franchise is something that would give us a bargaining point. Zygielbaum asked if Robinson had noticed improvement in the Navigator. Robinson said yes, it doesn't reboot as often, (probably only one or two spontaneous reboots in the last two weeks), and it doesn't freeze as often. However he still feels that its features, especially the search capabilities, are inferior to Passport's. Zygielbaum said that they're apparently fixing bugs, asked if the bug fix rate is something that could be expected for someone coming out of beta. Robinson said that's probably a fair statement, rate of bug fix is OK, but that he feels that the number and severity of bugs there was not acceptable, even for a beta version.

Behlen asked if when Robinson's system locks up do both of the DVRs tend to lock up at the same time; Robinson said that he hadn't noticed that type of pattern but couldn't say for sure. Lee said that shouldn't be the case because it's within the box; Robinson agreed that he hadn't observed any particular case of simultaneous lockup. Lee asked if the black screen problem which he'd referred to had happened recently; Robinson said no, it was a while back. Lee said that she had observed a similar phenomenon last summer but hers was in the Passport days; Robinson said his was with Navigator but it was a while back.

Lee asked to explain the problems with the search feature. Robinson said that to find a specific college football game he had to dig through a series of folders. He said it's easier for something like college wrestling, which has fewer shows and requires fewer folders. Friedman asked, as a software professional, why he thinks TWC would place this item out on the market if they had something that worked. Robinson said that he thought TWC was trying to position themselves for the future, that they had a vision of using their own product which they could then modify as needed; however he thinks they did a bad job of implementation. Thinks they moved it to market too soon. He can't state exactly without doing a software audit, but he feels that the implementation wasn't handled properly.

Rehm asked how one would conduct an audit. Robinson said that a lot of people are qualified to do an IT audit. One looks at project plans, design documents, error tracking & correction processes, what kind of outstanding issues existed when the product rolled out, things like that. His firm puts out software and he's aware that you sometimes need to roll it out with known bugs, but as a professional he makes sure that the severity of the bugs doesn't limit the product's usefulness, and that the bugs are published so that users know about them rather than having to find them by accident. Rehm asked if there are any Lincoln firms that conduct software audits. Robinson said he doesn't know of any; he knows of one in Arizona, one in New York, and there are others. His firm has a big internal audit division. Zygielbaum asked if there are proprietary issues involved with people coming in to do an audit. Robinson said they don't have a problem with it; they

require that the audit firm sign non-disclosure agreements and that works pretty well.

Johnson asked if Robinson had any remedies to suggest. Robinson hasn't really looked at the monetary aspects; he's just frustrated with the lack of service, the poor quality of service. Doesn't know how one quantifies that one is on a business trip and sets the DVR to catch an episode or a sporting event, then comes home to find out that it's not there. Business clients can put a value on labor costs, etc, but how do you quantify entertainment. Zygielbaum asks what's prevented Robinson from using alternative options, such as Dish or satellite TV. Robinson said that until a year ago he had lived in a location where he couldn't use a dish due to a homeowners association agreement; Zygielbaum said that's incorrect because federal law allows homeowners to install satellite dishes and preempts homeowners association agreements. Robinson said that's true, however he doesn't like dishes because weather events can inhibit reception.

Lee asked if he could subscribe to Tiro to get around it. Robinson was unaware that Tiro was available here. One other thing is that he subscribes to Road Runner, likes it and wouldn't want to lose it, but that if he switched from cable TV he'd probably have to look into switching to another Internet service. He said there's some "inertia"; he's not mad enough yet to go to the pain of switching out his TV service. Rehm asked about a post implementation review, how that's done. Robinson said that you write down the different facets of the job, judge how well each individual part was implemented.

Beth Scarborough spoke, representing Time Warner Cable. Thanked us for being on the CAB; knows that this is a difficult issue and that this is taking up time that Board members may not have expected when they joined the board. Hopes and knows that the Board will continue to use good judgment and common sense in these deliberations. She said that TWC has a good record with customer care; have rarely had issues that have risen to the level of City involvement. She said that TWC has the same people working on Navigator issues that have been there working with Lincoln for years. She said that Navigator is still TWC's top priority. They care about what was said tonight, and what was e-mailed to the Board. Everything that's going on is being monitored by a SWAT team made of the best development people that TWC has, in their Westminster office in Denver, who are working side by side with the TWC Lincoln staff.

Calls are being analyzed every day; they're looking through the code to see if it's a customer education issue or a software issue, and to see if there's a software rewrite that would be needed to make the box "smarter." Moving as fast as they can to keep the process moving forward. TWC does need to continue hearing from people. Scarborough said that a lot of the problems are customer education issues that still need to be handled. A lot of the complaints refer to Passport features that people think are gone, but that do still exist and are just done differently with Navigator. For instance she saw several e-mails on skipping a day into the future; this is inaccurate. One can skip by day; it's just done differently with the remote for Navigator than it was for Passport. She said that a lot of the problems aren't Navigator-specific; for instance pixilation of the screen (breaking up into squares) is likely a signal problem rather than a Navigator issue.

TWC does offer free service calls; people should contact them (phone 421-0300, there is a customer service form on the Time Warner Cable Web site, or write a letter directly to Beth Scarborough directly at Time Warner Cable.) Stuart Long commented, regarding the comment that the same people are handling this problem as have been there all along, that from time to time he's heard that specific people from TWC are no longer employed there. He asked if any people connected with the Navigator project have been released. Beth said no, also that she doesn't know what he's referring to regarding people moving on. Long said that TWC have told the CAB that specific people no longer work for them; he's just wondering if any Navigator people "no longer work there." Scarborough said no, the Navigator people are all still employed by the company.

Friedman asked what the total number of complaints that they're getting now versus what they've normally had. Scarborough said that there are 110,000 Nebraska customers, 45,000 of whom are digital subscribers so would have Navigator; and her estimate is that they get about 100+ calls per day in which Navigator is mentioned in some manner, out of an estimated 2000 calls per day. Donna Behlen indicated a large stack of e-mails that had been received by the Board earlier in the day, not all sent in the same day but all of which were sent in the last week or so. Scarborough said that she understands that there was a request for e-mails to certain customers. Behlen said that she hadn't requested it; however her question relates to other cities. She understands that Kansas City and Milwaukee are the only two other markets using Navigator (she asked Scarborough if those are the only two; Scarborough said yes); Behlen asked if people in those markets have had problems similar to Lincoln's. Scarborough said that there have been issues in other markets. Behlen asked if the volume and types of problems in those markets are similar. Scarborough said that she thinks the problems are similar in the three cities. Zygielbaum asked if the rollout was done the same way in the other cities. Scarborough said yes. Literature was customized somewhat by location, but basically the rollout was the same.

Friedman asked if TWC plans on giving out some type of credit to customers; Scarborough said that TWC has given out a lot of credit; hundreds of credits. (Exact amount will be submitted later with the formal responses to questions submitted by the Board.) There has been accelerated usage of the Navigator; failure isn't an option and they'll fix it. Friedman said that "if it ain't broke, don't fix it"; asked if Passport was broke. Scarborough said no, it wasn't broken, TWC had made a strategic decision to make their own guide. Lee asked if TWC is rolling out the system in other markets around the markets around the country. Scarborough said that the company is paying attention to what's being learned in the test markets, and making sure that issues that have come up here will be addressed in future roll out, however that by July 1 they'll be using a version of this guide in every market due to FCC regulations on "severable security." The SWAT team will continue to work on the challenge.

Rehm asked who made the strategic decision to adopt Navigator in Lincoln; TWC Nebraska or the corporate office. Scarborough said that very high-level people at the corporate office made the decision. Rehm asked if TWC took into account that there are different types of cable boxes when they were programming the Navigator; Scarborough said yes. Schimek said that he just spent \$3000 for an HDTV; it freezes up sometimes; he has a very small number of HDTV channels, and has to subscribe to a lot of non-HD channels. Was told that he had to keep all the music channels and a lot of other stuff just to get the HD tier. Scarborough thinks that he should be able to get the HD tier without all the other stuff, said they should talk offline after the meeting; she wants to make sure that she doesn't tell him misinformation.

Young asked Rehm to explain to the audience what was meant by references to questions that were submitted to TWC. Rehm explained that the Board has sent some questions to TWC, to be answered in the near future; we're also expecting that more questions will arise after tonight's meeting. Rehm asked what input TWC Nebraska had in deciding to adopt Navigator. Scarborough said a great deal of input. TWC Nebraska started looking at the project in April 2006, but the ultimate decision was made at the corporate office. TWC Nebraska didn't volunteer; they were asked to be an early market. Lee asked if TWC Nebraska could have refused; Scarborough said no, and we wouldn't have wanted to refuse. Very carefully wrote a launch plan. Nebraska was incredibly engaged in the process. We're not the "captain," we're the "first lieutenant."

Zygielbaum asked a question about being a beta test market; Scarborough said that she had used the word "beta" in a letter and now regrets it and feels it was wrong, should have used "early test market" instead. Zygielbaum said that we have a couple of software professionals who think it's beta. Regardless, if TWC had it to do over again, how would they handle it differently. Scarborough said that they've learned new things from a design standpoint. But you can't rush the design features at the expense of stability; that's what went wrong in January because the new features caused serious latency issues.

Lee asked if there are re-education matters that can be done. Scarborough said that there are ways to do a lot of things, day-skipping, fast forward in 15 minute increments, avoid DVR scheduling conflicts. She said that this stack of e-mails will be helpful in educating the public. Lee asked if that could be included in a future bill; Scarborough said that they're thinking along those lines. Behlen asked if maybe the fact that the initial mailing was on a slick cardstock piece might have led people to believe that it was advertising and safe to discard, rather than important information that might be used for education. Scarborough said that's quite possible. Rehm asked, since Scarborough has mentioned that she erred in calling Lincoln's rollout a beta test, what the actual beta test was. Scarborough said that the system has been tested by employees, and in labs in Denver and Charlotte, and focus groups; testing has been going on for years. Combination of employee and labs were the largest groups.

Testimony followed from:

Jeanelle Kleveland (very unsatisfied with the existing Navigator, wants a return to Passport, or an alternative cable provider.)

Will Kerns (unsatisfied; thinks the time line should be investigated. Thinks that we were a test market. Talked to Bruce Ubben after testifying at the City Council meeting on the issue, has not heard back from Ubben.)

Steve Kiene (he's a software developer, makes mission critical software. Is appalled at the Navigator user interface for the DVR, also thinks it shows poor performance and poor design. Volunteered his services to help fix it, for free.)

Bill Korb (unsatisfied. He had Navigator for three months. After the latest upgrade, no problems until yesterday; system rebooted, he tried to call TWC and was informed that there would be a ten-minute wait time. Thinks we need a competitor cable company.)

Frances Breedlove (Unsatisfied; she says if you order châteaubriand, you don't expect to get meatballs.)

## **Adjournment**

Art Zygielbaum moved, Laurie Lee seconded that we adjourn. Motion passed 9-0.

Respectfully submitted,

*Jim Johnson*

Secretary

# Cable Advisory Board

## Special Meeting Minutes April 4, 2007

### **Board Members:**

**Present:** Jon Rehm, Stuart Long, Jim Johnson, Donna Behlen, Laurie Lee, Scott Young, Art Zygielbaum

**Absent:** Herb Friedman (excused), Herb Schimek (excused)

**Time Warner Cable employees:** Beth Scarborough, Ann Shrewsbury, Dick Cassidy, John Pokojski

**City Staff:** Diane Gonzolas, Steve Huggenberger

**Others present:** Lisa Blakey, Denis Donohoe, Janet Rodriguez, Jeff Korbek

Chair Jon Rehm called the meeting to order at 7:00 p.m.

Minutes were read and approved 6-0, (one Board member wasn't yet present at the time of the vote).

### **PUBLIC COMMENTS**

Lisa Blakey addressed the Board. She is a Time Warner Cable (TWC) subscriber, and had not heard about the March 27 public hearing on the Navigator until afterwards, but wanted to make some comments for the record. Her biggest concern is that the new product was forced upon customers, and they were expected to accept it. She has had problems ever since the change from Passport to Navigator. Her system reboots randomly, her DVR doesn't always record anything. To get it working she sometimes has to reboot the system. Blakey says that she would have expected to get a better deal for her money than what she now gets, which is quality service half the time. She doesn't appreciate to be given the answer "we're working on it" every time she asks. Blakey would like some type of compensation; however she mostly just wants to get a working product. She would like to back to what she had with Passport.

Art Zygielbaum asked Blakey what she thought might be a fair remedy. She said that she should be credited. Her monthly bill is \$150, she says that's a lot of money and she expects to get the service that she's paying for. Laurie Lee asked if Blakey had noticed any improvement in the last few weeks following the latest upgrade. Blakey said it seems better, but it still needs to be rebooted at least once a week. She says that it's still not working as well as Passport had worked. Dr. Lee asked if Blakey had requested compensation. Blakey said not as far as she can recall, mostly she just wants the problems fixed. She said that she lives in an apartment and can't get satellite installed. Zygielbaum said that's incorrect; federal regulations allow tenants to install antennas if they choose to. Blakey said that she was unaware of that, however she doesn't want to go the satellite route. She feels it's unfair that TWC has a monopoly on cable service in Lincoln.

### **DISCUSSION OF TECHNICAL & CUSTOMER SERVICE ISSUES**

Chairman Rehm asked if there has been any progress on the questions that the Board had submitted to TWC. Beth Scarborough from TWC said that the formal answers would be ready by the end of the next week. She has some answers and was willing to share some information orally with us at this meeting, if the Board so desired. Stuart Long said that he feels that we should wait until the formal written answers are ready; he doesn't feel that informal oral answers would be an appropriate response at this time. Art Zygielbaum agreed that we should wait until formal answers are delivered. Scarborough said that working on the formal answers to the questions slows down their progress on solving the existing problems. Zygielbaum said he understands that it impacts the process, but we wouldn't be sitting here discussing the issue if an adequate effort had been made to address the issues in the first place.

Stuart Long had drafted a memo to the Board, summarizing questions that he has heard from the public and suggesting subcommittees and some action that the Board might want to consider taking. His memo suggested three committees: Hardware/Software, Customer Service, and Other.

He suggested that in the next few weeks, subcommittees could look at the TWC responses, refine and offer further questions as needed, consult TWC staff and other experts as needed, coordinate with other Navigator cities if possible, and finish the information gathering phase; then the Board could reconvene and discuss how to report what we have learned to the City Council.

Laurie Lee asked if we are limited for the current discussion to questions about the Navigator. Long said no; section 4.5 of the franchise agreement describes what can be considered during a performance evaluation, and section 4.5 © which describes the issues that can be addressed appears to be pretty flexible. Donna Behlen asked Steve Huggenberger if we could choose to limit ourselves to the Navigator and related issues. Huggenberger said that the Board can determine that; however we can do a maximum of one performance evaluation per year.

We discussed the committee structures proposed by the memo. There was consensus on the need for a Hardware/Software committee and a Customer Service committee, but some questioned the need for an "Other" committee. Long said that having three committees would be a way to get a majority of the Board involved; he feels that three members on a committee is a good number.

Zygielbaum suggested that we might want to set up a committee on Remedies. Chairman Rehm said that he thinks remedies should be considered by the Board as a whole, at the appropriate time nearer to the end of the process. Dr. Lee said that she wants to see that we arrive at some conclusions; she thinks the "Other" subcommittee is too broad of a scope and wants to focus more on what kind of damages were done so that we can help recommend compensation. Jim Johnson also thought the "Other" was too broad for a subcommittee.

Scott Young said that some of the tasks that Stuart had suggested for the "Other" committee are more properly viewed as the ongoing work of the Board. He feels that there is a higher sense of urgency on the problems with the Navigator than on some of the other issues. Zygielbaum asked Huggenberger how long a performance evaluation can be; Huggenberger said that there's not a limit. Long said that he thinks we need to address the monopoly issue in the report because that's a big issue with people. Behlen said that if we find we need to include that or other issues to the report we can do so but that we don't necessarily need to have a separate committee addressing those issues.

Chairman Rehm said that he thinks we should set up just two committees, Hardware/Software and Customer Service. We can consider other issues as part of the ongoing mission of the board, as needed. Donna Behlen moved, Art Zygielbaum seconded, that we establish a Hardware/Software Committee and a Customer Service Committee; motion passed 7-0. The Chair appointed the following members:

**Customer Service Committee:** Chair Stuart Long, Donna Behlen, Scott Young, Jim Johnson

**Hardware/Software Committee:** Chair Art Zygielbaum, Laurie Lee, Jon Rehm

Art Zygielbaum commented that he has found that one of the hardest industries to work in is a service industry. He said that his company used to do Gallup surveys; he thinks that the Board should consider doing a survey of the public. Behlen said that surveys are good, however they cost a lot of money and there are currently no dollars available to this board to conduct a survey. Steve Huggenberger said that at the present time there are no dollars earmarked for the process, however we may request funds from the City Council if we choose to. Zygielbaum said that it would be useful to determine the extent of customer satisfaction or dissatisfaction, and to know if the feelings of customers are different based on what type of cable service they have and what type of equipment they use. He said that if 90% of people are unhappy about the Navigator that would be a different issue than if only 40% were unhappy, or if a large percentage of people like the Navigator better than the Passport.

Jim Johnson said that he doesn't feel a formal survey would be a useful expenditure for this process. Long said that he would like to know the extent of the problem. Zygielbaum said that he would like to know what TWC thinks about whether a survey should be conducted, perhaps jointly by the City and TWC. Ann Shrewsbury from TWC said that she thinks we need to work closer together with TWC on this. She said that Beth Scarborough had been willing to discuss some of the answers to questions (including thoughts along these lines) but the Board had decided against hearing from Scarborough orally rather than formally through written answers. (Scarborough had to leave the meeting prior to this point in the conversation. Zygielbaum said that we should maintain a spirit of cooperation. Scott Young said that the purpose of the evaluation is to make recommendations; one of those recommendations could be that we might recommend a survey, or do one ourselves. Chairman Rehm thought that getting a quantifiable amount of information would be helpful.

Stuart Long thought we should give some thought to when our next meeting will be. Scott Young thought that we should see what answers come in on the 13<sup>th</sup>, then reconvene as a board at a later date. Long thought it might be helpful for committees to meet prior to the next meeting. Zygielbaum suggested Thursday, April 26, 4:00-6:00 (in the Mayor's conference room if available, elsewhere in the building if the conference room isn't available.) That was the consensus choice. The committees will discuss separately whether they need to meet prior to that date.

Donna Behlen asked if subcommittee meetings are required to be open to the public. Steve Huggenberger said that it's up to each committee. However we can't have six members of the Cable Board at any meeting, because that would constitute a quorum and would need to be publicly advertised ahead of time. Ann Shrewsbury said that employees from TWC would be willing to meet with the committees as needed, if given sufficient notice about the time.

Back on the subject of polling, Zygielbaum said that he'd be glad to contact Gallup informally to ask what kind of price range we might be talking about, if we decide to do a survey. Steve Huggenberger said that the Cable Board had done some polling once, regarding PEG questions. Denis Donohoe, a member of the public who had been on the board at that time, remembered the poll; he said that the results were tabulated and passed around, but that then that process kind of just died. Dr. Lee said that this poll could be more narrowly focused and might bring more meaningful results, such as determinations for what remedies are available. Consensus was to have Zygielbaum talk to his contacts at Gallup, meanwhile Shrewsbury will get some information that Time Warner Cable has from polls they've conducted, and we'll discuss at the next meeting.

## **PUBLIC COMMENTS**

Lisa Blakey asked if she could address the board for a couple of minutes again, regarding some thoughts on customer service which had come to mind during our conversation. Consensus was that she could; she said that she has had problems getting good customer service. She said that the customer service line is supposed to be open until 10:00 p.m., however whenever she calls after 9:30 she can never get through. She also said that she objects to being told by service personnel how to use the Navigator remote; she says the Passport was user-friendly and for the money she pays, she thinks that the Navigator should work as well as the Passport did. She thinks that service people have a condescending attitude towards customers on this issue.

## **ADJOURNMENT**

Stuart Long moved, Donna Behlen seconded that we adjourn. Motion passed 9-0.

Respectfully submitted,

*Jim Johnson*

Jim Johnson, Secretary

# Cable TV Advisory Board Minutes

## Special Meeting April 26, 2007

### **Board Members:**

**Present:** Jon Rehm, Stuart Long, Jim Johnson, Donna Behlen, Herb Friedman, Laurie Lee, Herb Schimek, Scott Young, Art Zygielbaum

**Time Warner Cable employees:** Ann Shrewsbury, Dick Cassidy

**City Staff:** Diane Gonzolas, Steve Huggenberger

**Others present:** Jeff Korbelik, Erin Steinbruchel

Chair Jon Rehm called the meeting to order at 4:05 p.m. The Chair announced that a copy of the Nebraska Open Meetings Law was posted at the back of the room for those who were interested.

Board members introduced themselves.

Minutes from the special meeting of April 4, 2007 were read and approved unanimously.

### **Time Warner Cable Performance Evaluation / Discussion of Technical & Customer Service Issues**

We discussed the written answers that Time Warner Cable (TWC) had submitted to written questions which the Cable Board had submitted regarding the Navigator program guide.

With regard to TWC's characterization of the introduction of the Navigator as not being a beta test, Art Zygielbaum said that a standard industry definition of a beta test is taking testing of a product from internal company testing to external testing by members of the public. Zygielbaum said that any expert in software development would agree that the introduction of the Navigator to Lincoln was a beta test. He said that the testing process was done well, with a fairly rapid rate of bug fixes, however he said that customers should have been told that they would be part of a beta test, and if possible they should have given the opportunity to opt out of testing, or if not possible they should have been compensated for being part of the test.

Chairman Rehm asked Zygielbaum if he has credentials that indicate his expertise on software issues. Zygielbaum said that he was a software developer for two decades, and was involved in software management for two decades. He has spoken on software issues in front of numerous groups, and has even testified to Congress on these issues. He believes that his credentials indicate that he's qualified to comment on these issues.

Stuart Long noted that all of the questions relating to the number of customers affected, the number of rebates, and so on, were either answered as "Unknown" or marked as "Confidential and Proprietary Data." Long said that he had previously assumed that the written answers to questions about level of customer service would be more informative than public testimony by TWC officials, but he now feels that the written testimony is less informative.

Laurie Lee said that she agreed with Long that a lot of the answers were incomplete. She feels that this will make it difficult to assess remedies.

Zygielbaum asked if there is a mechanism by which Board members could sign confidentiality agreements with TWC and then be allowed to look at the proprietary information. Steve Huggenberger from the City Attorney's office said that individual Board members would be able to sign agreements if they choose; the Board as an entity cannot do so without broader discussions because that might make the City liable for breach of confidentiality agreements. Huggenberger also said that individuals who do look at the information would need to be very careful that they don't inadvertently refer to that information in public discussions. Jim Johnson

indicated that he thought that it would not be helpful to look at the proprietary information, he thinks that looking at information which we couldn't discuss publicly would not be helpful to our task, and he would be opposed to doing so. Zygielbaum said that on the contrary, it might be helpful for a board member to see the information and then work with TWC to see if some of the items could be released to the public. Ann Shrewsbury from TWC said that we need to understand that they're in an incredibly competitive environment, and there is a need for caution.

Herb Schimek said that it's time that the public learns just how "impotent" the Board is in terms of being able to solve problems with the franchisee. Donna Behlen agreed that the Cable Board is advisory. She said that she feels in this case that the Navigator situation has led to a customer service nightmare, and we need to work on solving the problem and getting a timely response back to the City. Zygielbaum agreed with that, but feels that we can tell the City what we think. He also says that sales and market information is public and not proprietary. Shrewsbury said that Beth had come to the last meeting and was willing to share some of the information, but that she was muzzled by the Board. Scott Young objected to that characterization; he doesn't think that the Board muzzled anyone. Zygielbaum asked if there would be a chance that TWC would allow a Board member to look at the information under a confidentiality agreement. Shrewsbury said that depends; she can't answer that question. Shrewsbury said that TWC is proceeding with fixes to the Navigator; it's business as usual on the fixes and they're not waiting for Board input. She said that they're no longer in the "customer service nightmare" phase that Behlen had mentioned.

Long mentioned that it was in fact a CS nightmare; there was public testimony from TWC at the Council meeting that Beth Scarborough had said that at the City Council on the issue meeting that there had been 5000 complaints about Navigator at the time, and subsequently Scarborough has said that there are now about 100 per day; his calculation showed that this adds up to about 10,000 complaints in all. Shrewsbury said that Long's number was high; the numbers that Scarborough cited included all calls in which Navigator was mentioned, not necessarily complaints. Long said that whether it's 10,000 or whether it's only 7500, the Board has no way of determining how many complaints were in which categories. He said that we need to do something about this. He urged the Board to accept TWC's written answers as their final word, rather than submitting another round of questions which he feels would be no more informative.

Long said that we should move on to a written report. Laurie Lee said that we need a plan; she thinks that we don't yet know what data we need. Zygielbaum agreed with Long; he thinks we need to move on and decide what we're going to do. He said that the platform appears to be stable now. He thinks we're moving towards stability. Behlen said that we need to define what we want that corresponds to counting complaints.

Chairman Rehm asked if the Board feels that there is a need for a closed session. He doesn't think so. Stuart Long commented that he had thought prior to the meeting that an executive session would have been needed if written answers to the questions had not arrived from TWC, but he no longer thinks that it's needed. Consensus was that we didn't need to go into an executive session.

Chairman Rehm asked for input on when subcommittee reports should be submitted. Zygielbaum said that the Hardware/Software committee thinks that they can get their work done within two weeks. Long said that the Customer Service committee had been thinking more like one week, so two weeks should be fine. Rehm set the next meeting for two weeks away, May 10<sup>th</sup> at 4:00, room to be announced.

We discussed the possibility of a survey. Rehm thinks that it would be cost prohibitive. Zygielbaum had contacted people at Gallup. He said that they had thought it would cost about \$35,000 to \$40,000 to do a survey; they also were reluctant to do that type of survey because they don't normally do public surveys with direction towards evaluating a specific corporation. Schimek said that he thinks it could be done for a lot smaller amount, and overnight; his office does surveys all the time. Long said that we could consider doing a smaller survey.

Lee asked what information we would get from a survey that we don't already know. She thinks we would need to determine if there would be a benefit to a survey. Young said that we could ask how many people have had success with the Navigator, how many have had failures. He thinks we need to get as much information as possible on that. He thinks that it's in TWC's best interests to know that too, and he thinks a survey would be useful. Zygielbaum agreed with Lee that we'd need discussion to determine if a survey would be useful. Behlen said that not everyone writes in to the Board or to TWC. Shrewsbury said that it's sometimes difficult to gauge the reasons that people are complaining.

Zygielbaum pointed out that there are surveys on the TWC Web sites in Kansas City and Milwaukee asking what people think about the Navigator, thinks that TWC Lincoln should do the same. Shrewsbury said that their site has a general survey which includes a drop-down box where one can select Navigator. Zygielbaum said that normally in a beta test someone is given information and can opt out of testing. Shrewsbury said that this was not a beta test. Lee said that we could make a later recommendation that the City do a survey. Zygielbaum moved that we table the idea of a survey for now. Schimek seconded. Motion passed 9-0.

We had a short discussion on remedies. Long thinks that remedies will be a controversial issue. Shrewsbury said that TWC has found it necessary to vary the remedies according to the customer. Young thought that customers would generally say that the remedies received to date aren't enough. Shrewsbury said that customers who write to the Cable Board are always going to say that they're not getting enough as a remedy.

Stuart Long wanted clarification on future meetings. We scheduled meetings for May 10<sup>th</sup>, May 17<sup>th</sup>, and May 24<sup>th</sup> at 4:00 p.m., rooms to be announced.

Laurie Lee asked out of curiosity for information from TWC regarding a news article that had appeared after our last meeting, indicating the possibility that the Navigator product still might be discontinued. Lee asked if it was true that we might return to Passport. Ann Shrewsbury said that was one of the things that Beth Scarborough had hoped to comment on that at the last Board meeting, but had not been given the opportunity to speak to. Shrewsbury said that TWC has taken these complaints very seriously, and at this point all options are still on the table regarding Navigator, including possibly reverting to Passport. She said, however, that with the latest upgrades they're hearing from some customers that they now like the Navigator better and would not want to revert back to Passport.

Herb Friedman asked Shrewsbury who made the decision to switch to this "piece of junk"; was it a local TWC Lincoln decision or was it the corporate office? Shrewsbury felt that because of the phrasing of the question, she didn't feel that it needed an answer; however she referred Friedman to the written answers, which do answer the question of whether the decision to make Lincoln a Navigator market was made locally or at the corporate office. Zygielbaum said that he feels that the Navigator is not a "piece of junk." Friedman said that he has maybe more of a "hard edge" than Zygielbaum and some others on the board; he thinks that TWC chose Lincoln as a test market because we're a small market in their corporate structure. He thinks the corporate office should send someone to Lincoln who can answer questions on how the decision was made.

Behlen said that she thinks that TWC was reactive instead of proactive on the Navigator problem. Shrewsbury said that they're not being reactive with bug fixes. Zygielbaum said he was offended by the fact that there was so much hype surrounding the product prior to introduction. He said that if TWC had announced to the Lincoln customers that we were going to be running a test of the product, a lot of the backlash wouldn't have happened.

Scott Young said that people were also offended by a rate increase in the middle of the process; some feel that they're being charged more for an inferior product. Friedman said that TWC Lincoln needs to tell corporate that this "piece of junk" doesn't work very well. He said that they cut corners to get the product out the door; it's been sitting on the drawing board for five or six years and they should have gotten the bugs out before sending it out to customers. He thinks that TWC is just trying to "pull our tail." Dick Cassidy from TWC disagreed with Friedman's comment. He said that no one is trying to "pull our tail." People are emotional over this issue. He said that TWC is very aware of the problems and have worked hard to solve them, but there has been a lot of emotion in the process, which doesn't help.

**Public Comments:** There were no comments from the public.

**Adjournment:** Art Zygielbaum moved, Laurie Lee seconded that we adjourn. Motion passed 9-0.

Respectfully submitted,

**Jim Johnson, Secretary**

# Cable Advisory Board Minutes

## Special Meeting May 10, 2007

### **Board Members:**

**Present:** Jon Rehm, Stuart Long, Jim Johnson, Donna Behlen, Herb Friedman, Mary Herres, Jerrod Jaeger, Laurie Lee, Herb Schimek, Art Zygielbaum

**Absent:** Scott Young (excused)

**Time Warner Cable employees:** Ann Shrewsbury, Dick Cassidy

**City Staff:** Diane Gonzolas, Steve Huggenberger

**Others present:** Jeff Korbek, Erika Summers, Scott Zager

Chair Jon Rehm called the meeting to order at 4:05 p.m. The Chair announced that a copy of the Nebraska Open Meetings Law was posted at the back of the room.

Board members introduced themselves. Introductions included two board members, Mary Herres and Jerrod Jaeger, who had been appointed to replace vacancies.

### **APPROVAL OF MINUTES**

Minutes from the special meeting of April 26, 2007 were read. Art Zygielbaum made one correction. Minutes had reflected a comment from Zygielbaum that the Navigator is not a "piece of junk," a reference to a previous comment by Herb Friedman; however Zygielbaum had added the following comment at the meeting on the 26<sup>th</sup>, and moved that it be reflected in the minutes: "*Navigator has improved but still has some rough edges.*" Sentence to be added immediately following Zygielbaum's first comment as mentioned above. Donna Behlen moved that the minutes for 4/26/07 be accepted with that modification, Herb Schimek seconded, motion passed 10-0.

### **TIME WARNER CABLE PERFORMANCE EVALUATION**

Chairman Rehm asked if anyone had further need for discussion of the answers to the questions submitted to Time Warner. No discussion; consensus was that sufficient discussion had been held at the previous meeting.

Stuart Long distributed copies of the Customer Service (CS) subcommittee report, and presented an overview. The report as drafted included four recommendations; generally on compensation, improvements to the TWC Lincoln customer service home page, suggested modifications to the franchise's reporting requirements, and use of television to educate the public on how to use Navigator.

Art Zygielbaum distributed copies of the Hardware/ Software (HW/SW) subcommittee report. As an overview, Zygielbaum said that the subcommittee believes that TWC ran a beta test for the Navigator in the Lincoln market; the committee feels that the fact that they did a beta test is good but the process was flawed. In particular they should have informed users that they were part of a beta test. The draft report included two recommendations, one regarding compensation and the other regarding improvements to the TWC testing policy.

Chairman Rehm said that it would probably work best to first go through the non-compensation related recommendations of the two committees (items 2-4 on the CS report, item 2 on the HW/SW report), and leave the discussion on compensation and rebates until last.

We discussed the CS subcommittee report first.

### **Regarding CS item (2):**

Improvements to the customer service home page, Laurie Lee said that it looks like it would be easy to implement some changes to make the home page easier for people who have complaints or questions. Ann Shrewsbury from TWC said that there are already several opportunities for feedback on their site;

this includes contact information for each city and town in the Nebraska market. Responding to Long's distribution of a comparison of the customer service home page on the Nebraska site versus the corresponding page on the New York/New Jersey site, Shrewsbury said that Lincoln has a smaller market and is better able to talk directly with their customers than their New York office. Shrewsbury said that she gets copies of e-mails that come to their site, and she personally saw to it that soon after the Navigator was put on the market, there was a "Navigator" dropdown item added to one of their combo boxes, in order to make it easier to report problems with the Navigator. Donna Behlen asked Shrewsbury if she had looked at the NY/NJ site. Shrewsbury said she hadn't; however TWC Nebraska would be willing to make changes to their site if it will help their customers.

### **Regarding CS item (3):**

Rehm said that he thinks the recommendation is a good one; it might have helped the Navigator situation from getting out of control if the City had been informed that there were as many problems as there were. Long said that in clarification, the subcommittee is not expecting detailed information about each call, just monitoring of the levels and kinds of complaints that are showing up. Donna Behlen said that it would help us see if there were trends, and to be proactive rather than reactive. Mary Herres said that some people think the recent upgrades to Navigator have fixed the problems, but others don't think so. Laurie Lee said that the broadcast industry has to track their e-mail complaints, she wonders if TWC might not also have to keep track.

Steve Huggenberger from the City Attorney's office cautioned that recommendation (3) in general would likely require an amendment to the franchise agreement. Herb Friedman asked how the agreement could be amended; Huggenberger said that there would have to be negotiations between the City and TWC. Long said that the committee isn't trying to renegotiate the franchise. Zygielbaum said that better reporting would be a good thing for TWC as a corporation to do.

Shrewsbury said that she has always been forthcoming to the Cable Board. She could envision that this requirement might entail having to hire an internal analyst. She will continue to report problems that turn up; however she doesn't think it would be productive to require detailed statistical reports. Lee asked if the current customer service process includes a breakdown by various types of complaints. Shrewsbury said no; they do track whether it's a complaint about TV, Road Runner, phone, or whatever, but not by issue. She says they get about 100 calls per day. Jerrod Jaeger asked if TWC keeps a breakdown by type of complaint. Dick Cassidy from TWC said no, there's a lower granularity.

Herb Schimek asked Cassidy if he reports to his supervisor on the problem issues; Cassidy said yes. Behlen said that's the kind of information that the CS subcommittee is looking for; not specific phone call information as much as the breakdown of important issues. Zygielbaum said that it would be nice to know what percentage of the calls were caused by Navigator problems versus other types of problems.

Scott Zager (member of the public) commented that he had recently been told by a TWC customer service rep that calls are logged and that people with multiple calls are more likely to be listened to. He would like to know that his repeat complaints are being properly logged. Herres said that service calls should be logged. Cassidy said that they are; the rep takes as detailed notes as they can. However these notes are freeform, and there would be a challenge trying to accumulate statistics from them. Cassidy said that they don't have a tech that just does Navigator problems.

Behlen asked if that meant that TWC collects the data from individual complaints, but are not able to compile a statistical report; Cassidy and Shrewsbury said yes. Herres said that a friend had told her that their compensation was dependent on how many times they called in. Cassidy said that's wrong; compensation that TWC gives is not dependent on how many times someone calls. Zygielbaum asked if TWC officials consider specific problem areas in any kind of weekly or monthly staff meeting. Cassidy said yes. Zygielbaum asked if the company could get a copy of that info to Jon Rehm or Steve Huggenberger. Cassidy said he couldn't make a promise to that effect. Zygielbaum said that if the company could get information to us from staff meetings, that would be helpful.

Shrewsbury said that she personally monitors complaints closely; if she gets 3 or 5, she meets directly with the TWC Nebraska president and lets her know that their might be a problem. Zager reported that he has digital phone, and that he recently requested a copy of his account information; he says that the information is not very comprehensive.

#### **Regarding CS item (4):**

The use of television to educate customers, Laurie Lee said that she thinks this would not be a very efficient way to solve the problem. Behlen said that the committee envisioned this more as an introduction to the issue, rather than a way of figuring out detailed problems. Shrewsbury said that Answers on Demand (AOD) already does a good job of this; customers sometimes find the video element helpful. She said that a live call-in show would probably not be cost effective; she said that TWC did run a program, "Sights & Sounds," at one time which looked at specific aspects of their service, however the viewership was low. She thinks it would cost a lot to set up the satellite link, and there wouldn't be many viewers. Zygielbaum agreed that a live show would be a lot of money for a little use. He asked if they had a way to assess how much use has been made of AOD. Shrewsbury said that she could get us the numbers of hits. Zygielbaum said that it might be better to do an effective assessment.

Long said that item (4) was Scott Young's idea, he's not sure that he (Long) is correctly expressing Young's vision. (Young was unable to make it to the meeting.) Shrewsbury said that AOD is also available on their website if people want to take a look at it. Lee said that AOD is somewhat static by nature. Shrewsbury said that it's changed periodically. Zygielbaum said that this begs the question of whether TWC has a specific problem educating users on how to use their equipment.

#### **Regarding HW/SW item (2):**

Changes in the testing procedure, Friedman asked Huggenberger if that would require changes to the franchise agreement. Huggenberger said yes, he feels that it would. Jim Johnson passed along a concern from a software developer who feels that confidentiality concerns on the part of TWC would make it difficult or impossible to track whether a change actually meets the threshold for a "major" software release (replacement of 25% of existing code).

Jerrold Jaeger asked if the intent is to try to stop TWC from making major software releases; Zygielbaum said no, the committee just feels that such changes need to follow a standard testing procedure, including proper notification about possible problems and difficulties that may occur. Johnson said that TWC would say that they did notify users about the pending change to Navigator.

Zygielbaum said that the prior notification was a slick piece that didn't give any indication that Lincoln would be a test market for a new product. Behlen agreed that the mail piece didn't indicate that this would be a beta test; that wasn't confirmed until after the product had been distributed. Schimek said that they could have tested some smaller customer sample before going live in the whole Lincoln market. Herres said that they could have given people an option on whether to be a tester or not.

Zygielbaum said that the subcommittee is not trying to get into the minds of TWC. Friedman said that this kind of change would be complicated, and is something that should be dealt with as part of a franchise agreement the next time the franchise is negotiated. Zygielbaum said that there are probably some people in the TWC organization that see this as the right thing to do. Behlen said that the subcommittee's definition of "major" as a 25% change is a considerable change, and stipulation of such a change would make us be a little more proactive than reactive. Zygielbaum said that if reasonable notice had been made for the Navigator, the board wouldn't be here today investigating the problems. Shrewsbury challenged the board to consider the cost of revealing information in a competitive environment.

Having finished discussion with the non-compensation items, the board took a short break. Following the break, Zygielbaum moved that we go through each of the recommendations considered so far, and vote them either up or down. Schimek seconded. Lee thought we ought to have an opportunity to make amendments to some of them. Friedman thought they were fine the way they are. Motion passed 8-2 with Lee & Behlen dissenting.

**Long moved CS item #2, Schimek seconded, passed 10-0.**

**Long moved CS item #3, Schimek seconded.**

Herres said she thinks that TWC sometimes classifies problems as "resolved" when they're not; she moved to strike the sentence "Each complaint needs to be tagged "resolved" or "unresolved." Jaeger seconded. Jaeger said that he doesn't think that tagging the problems is necessary to determine whether there is a problem or not. Motion to strike the sentence passed 10-0. Zygielbaum thought we should clarify that the reports we want are statistical in nature rather than detailed lists of complaints; Lee wanted some indication that we are only asking for reports on cable television because the Cable Board has no authority to consider complaints about Road Runner or digital phone service. Zygielbaum moved to add "the number of" to the first sentence, preceding the words "telephone, email and mailed complaints," followed by the words "about cable television service." Behlen seconded the motion. Amendment passed 10-0. Motion as amended passed 10-0.

**Long moved CS item #4, Schimek seconded.** Friedman expressed concern about this one; thought that a live television broadcast would be unnecessary and would not really address the problems. Lee thought the spirit was good but the actual implementation would not be feasible. Motion was defeated 0-10.

**Zygielbaum moved HW/SW item #2, Schimek seconded.** Lee thought that the word "future" should be changed to "impending" to indicate a shorter time element. Zygielbaum thought about it, and moved that we just strike the word "future" from the sentence, to leave the wording "all major software releases." Lee seconded the amendment. Amendment passed 10-0. Jaeger said he's working on an alternate idea which he may bring to the board at the next meeting. Motion as amended passed 9-1, Jaeger dissenting.

## **COMPENSATION**

We began discussion on compensation. The SC committee had recommended a rebate for 50% of a customer's digital tier, DVR, and HD service through the end of May; the HW/SW committee had recommended that all digital tier customers receive a rebate of 15% of their total cable bill through the end of March.

Friedman reminded the board that this discussion might take awhile, and it's now 6:00 p.m. Zygielbaum thought we should try to make some progress towards reconciling the differing versions. Friedman asked what the average cable bill is. Shrewsbury said that the cost for monthly digital service is \$68.70. Zygielbaum said that we need to determine a percentage. Lee said that would mean roughly \$10/month for customers who have just the digital service. Scott Zager mentioned that he had Navigator problems, had called TWC to threaten that he was going to drop the service, and they offered him \$18 that month.

Zygielbaum said that as a beta tester, his normal expectation is that he would pay zero percent. His committee understood that a full rebate is not going to happen here; they had to determine the percentage. They thought 50% was too high, 25% was a little high, 15% was about right. Lee said that she had calculated her rebate if we did the HW/SW committee formula; she would be getting about \$116 and thinks that is a little high. Friedman asked what her monthly cable bill was; she said it's about \$140. Friedman said that then the \$116 would be about a month's service; he doesn't think that's out of line.

Zygielbaum said that what makes this hard is that there's a big difference in the damage done to different users. Shrewsbury agreed. She said that sometimes it's hard to determine the appropriate compensation. If someone's machine does spontaneous reboots, that's a different situation from someone who's only angry because they lost their jumpback feature. She said that TWC has been giving people as fair compensation as they could. Herres said she thinks a flat compensation is needed, otherwise people who don't have time to call TWC and wait on the phone are treated unfairly. Behlen said that a lot of people that she talks to have gotten frustrated and stopped calling customer service.

Zygielbaum wanted to establish a basis for compensation that we can all more or less agree on. His recommendation was that we start with the idea that the compensation should be a percentage of one's total cable bill. Start date would be the date at which Navigator was introduced into the home; end date would be whenever the product was "stable enough." One committee said May 31, the other said March 31, how about April 30 as a compromise? We had discussion on the appropriate percentage. Zygielbaum said 15%, Friedman thought 20%, Long thought 50%. Lee said that 50% would be more appropriate if we went back to just a percentage of the digital, DVR, and HD service as considered by the SC committee, but it is too high if we base compensation on the total cable bill.

Behlen thought we should start high, theory being that this is subject to negotiation anyway and the percentage will go down rather than up. Friedman said that 15% doesn't make a strong enough statement, whereas 20% would. Long argued for 50%; he thinks that amount is appropriate because we had testimony from some experts in the field that 50% was a fair amount. Long also said that we should put a minimum amount to make sure that no one falls through the cracks. Friedman moved, Behlen seconded, that the discussion be tabled until the May 17 meeting. Motion passed 10-0.

Friedman moved to adjourn, Behlen seconded, motion passed 10-0. Next meeting Thursday, May 17, 4:00-6:00 p.m.

**Respectfully submitted,  
Jim Johnson, Secretary**

# Cable Advisory Board Minutes

## Special Meeting May 17, 2007

### Board Members:

**Present:** Jon Rehm, Stuart Long, Jim Johnson, Donna Behlen, Herb Friedman, Jerrod Jaeger, Laurie Lee, Herb Schimek, Scott Young, Art Zygielbaum

**Absent:** Mary Herres (excused)

**Time Warner Cable employees:** Ann Shrewsbury, Dick Cassidy

**City Staff:** Diane Gonzolas, Connie Guillaume, Steve Huggenberger

**Others present:** Mark Beck (4720 Newton 68506), Jeff Korbelik (LJS), Erika Summers (KLKN), Quinn Schuler (KOLN/KGIN), Kiki Nichols (KOLN/KGIN)

Chair Jon Rehm called the meeting to order at 4:05 p.m. The Chair announced that a copy of the Nebraska Open Meetings Law was posted at the back of the room.

Board members introduced themselves.

**Approval of Minutes:** Minutes from the special meeting of May 10, 2007 were read. Herb Friedman moved approval, Stuart Long seconded, motion passed 10-0.

## Time Warner Cable Performance Evaluation

### PRESENTATION OF DRAFT REPORT

The chairs of the two subcommittees, Art Zygielbaum and Stuart Long, had drawn up a draft copy of a joint committee report. Long had written the first draft of the document, Zygielbaum had modified it and Long had finished up with some minor editing. We began where we had left off at the May 10 meeting, with a discussion of rebates. Long reported that the Customer Service committee had not gotten too detailed in its discussion of rebates, knowing that a comprehensive discussion on rebates would be done at the level of the full board. Zygielbaum said that direction from the Hardware/Software committee was that rebates should be based on the total cable bill for digital subscribers, not just on the portion of their bill which applies to digital service.

### REBATES/COMPENSATION

Herb Friedman moved, Donna Behlen seconded, that we recommend a rebate of 35% of the \$68.70/month standard digital subscriber cable bill, rebate to be given for a time period beginning when the customer received their Navigator and ending on April 30.

Zygielbaum explained that this would be based on the cost for the first box only; customers with two or more boxes were less likely to experience interruption of service unless both boxes failed at once. Behlen remarked that she's had situations where both of her boxes failed at the same time. Zygielbaum said that we could come up with all kinds of choices, but in order to state something clearly on paper the committee chairs had settled on just reimbursing based on the cost of a single digital box.

Friedman remarked that the 35% would send a signal to TWC which might be noticed more easily than if we only recommended 15%. Laurie Lee did the math and said that the 35% would work out to \$24.04 per month. Stuart Long said that there are two customer service issues for which customers deserve rebates: disruption of TV service and misuse of the entire customer base for software testing.

Jerrod Jaeger announced that he would be voting against the 35% proposal, because he feels that the only fair remedy is a complete return of monies paid for digital cable service since the implementation of the Navigator software. Jaeger feels that the software change was thrust on the customers recklessly, and to throw out a percentage such as 20% or 50% is arbitrary. Jaeger feels that in this instance TWC is not entitled to the benefit of the doubt, because they not only sent out a faulty product but they also were unable to fully address the problem. They claim to not have a system in place that would allow an effective analysis,

and though he appreciates his communications with Ann Shrewsbury, TWC has not been completely forthcoming with the Board or the customers.

Zygielbaum said that while he understands the concept of a full rebate, this board has no enforcement authority, and he thinks that the chances of getting some action from Time Warner Cable is better if we go with a number such as 35% rather than 100%.

Friedman's motion passed 9-1, Jaeger dissenting.

### SUBPOENA POWER

Herb Friedman moved, Herb Schimek seconded, that "The CAB recommends to the Lincoln City Council that if additional information is required from CAB regarding TW's Navigator software system, that CAB be granted subpoena power to obtain additional information at public hearings, to including testimony under oath and documents, in accordance with such rules and procedures granted by the City Council."

Friedman stated that TWC has stonewalled every step of the way, and if the City Council wants us to investigate the problems, then someone needs to grant us the tools to get the information, and that would be subpoena power.

Zygielbaum asked Steve Huggenberger if it would be possible for the Council to delegate such authority to the CAB. Huggenberger said that the Council has that authority, but he isn't sure if they have the power to delegate that authority to others. He also cautioned that subpoena power comes with potential liability issues

Zygielbaum asked if our response to the problems would have been different if the Cable Board had been able to subpoena TWC officials and get testimony on the Navigator. Scott Young and Laurie Lee thought we would have arrived at the same conclusions, Jon Rehm thought on the contrary that we could have probed the matter further and come to some conclusions. Zygielbaum reminded us that we're an advisory board, not a regulatory authority; he felt that we should not ask for the Board to get subpoena power.

Herb Friedman modified his own motion to replace the clause which would give authority to the CAB with a clause requesting that the Council use their own subpoena authority as needed. After a couple of other friendly amendments (removal of the last clause "in accordance with ..." and an inadvertent "to" before the words "including testimony") wording of Herb's motion as amended became:

"The CAB recommends to the Lincoln City Council that if additional information is required from TWC regarding TW's Navigator software system, the City Council exercise its subpoena power to obtain additional information at public hearings, including testimony under oath and documents."

Motion as amended passed 10-0.

### **REBATES (REVISIT)**

Laurie Lee wanted to briefly revisit the discussion on rebates. Specifically she was concerned with how we might respond if the problems recur; whether there was some mechanism that we could put in the report to allow the ability to lengthen the period for which compensation would occur. Zygielbaum said that the Board could choose now to set the deadline to a fixed date later than April 30, but he didn't see how one would put in a deadline that would be flexible enough to handle unforeseen problems. No further action taken on this discussion.

### **CUSTOMER CHOICE RESOLUTION**

Jim Johnson moved that the Board adopt a "Resolution on Customer Choice in Interactive Program Guides" which he distributed, and that if passed, the "Resolved" paragraph be included in the draft report. Zygielbaum seconded. Zygielbaum asked Johnson if he would accept the addition of "if technically feasible" to the end of the "Resolved" paragraph. Johnson accepted the amendment. Zygielbaum and Lee pointed out that some people have expressed to the Board that following the recent upgrade, they now prefer the Navigator to the Passport. Johnson agreed, said that's why his resolution called for customers to be given the choice rather than calling for a blanket return to the Passport. Lee said that they may have to be a time limit; asked if we would want to be saying that five years from now TWC would still have to be giving customers the choice. Jaeger said that these are only recommendations anyway, TWC can decide if and how they want to implement them. Zygielbaum said that giving the choice would add cost; Lee agreed with Zygielbaum.

Wording of the portion of the resolution to be included in the draft report (as amended) is "The Cable Advisory Board calls on Time Warner Cable to give customers who prefer the Passport IPG the option to trade in their Navigator IPG and set top box for a Passport IPG and box, if technically feasible."

Vote was 8-2, Zygielbaum & Lee dissenting.

### **SUBSCRIBER BILL OF RIGHTS**

Stuart Long distributed copies of a "Subscriber Bill of Rights" that he'd found on a Los Angeles Web site. Long moved, Johnson seconded, that the Board recommend that TWC notify users of these rights, suggesting that they might put a copy of the document on their Web site and/or mail out to customers along with a cable bill. Friendly amendment was made & accepted to remove "Los Angeles" or to replace with "Lincoln" as appropriate.

Lee remarked that a lot of the recommendations look like things the FCC requires, but not all. She had concerns that if we're asking them to do this we should do it right, and that it would be inappropriate to ask TWC to list things on the document that aren't really granted to customers by the FCC or other regulatory authorities.

Jon Rehm said he liked the document as is.

Zygielbaum said that it would need to be updated for the Lincoln market, which would take some time. Lee said that we don't necessarily need to get the final version of the document approved today.

Long stated that he liked the document as is, however he had just remembered that he wanted to amend his motion to add a point #15: "You have the right not to be used as an involuntary beta tester of new products." Secunder accepted the friendly

amendment. Jaeger said that the proposed language for Point 15 sounded a bit rough. Zygielbaum said that there was already similar language in the existing draft document.

Point 15 having been added to the motion by friendly amendment, Jaeger moved an amendment to strike #15 from the motion under consideration, Zygielbaum seconded.

Long said that it should be in a Customer Bill of Rights as well, since many customers won't read the CAB report. Rehm said that our hope is that TWC would be sending the Bill of Rights to their subscribers. Zygielbaum said that we should remove #15 for now, could reword it for a final draft. Jaeger said he hopes we don't have to make 50 changes at the next meeting. Lee said that she doesn't think we have the authority to ask TWC to make statements that they'll do things that aren't required by law.

Amendment to strike #15 passed 7-3, Johnson, Rehm & Long dissenting.

Getting back to discussion on the main motion, Lee said that she still felt that some of these items may require a renegotiation of the franchise. Huggenberger requested & received permission to make a comment to the board. He stated his opinion that at least two other parts of the recommendation which had already been agreed to would also require a renegotiation; he didn't feel that the addition of the points in the Bill of Rights would be substantively any difficult to achieve.

Zygielbaum said that he thinks Long's comments on the document are good, however he's not comfortable with this because it goes substantially beyond investigation of the Navigator which is why we're holding special meetings. He thought it should be made part of a more general process to be discussed later. He expressed the thought that Navigator would be "part 1" of the performance evaluation and that other issues could be "part 2." Jaeger asked if there was going to be a part 1 and a part 2; Huggenberger stated his belief that the Council is expecting just one report. Jaeger and Rehm agreed that the political reality is that we'll really only get one chance for a report.

Motion to add the Bill of Rights (Items 1-14, with "Los Angeles" removed or replaced by "Lincoln" as appropriate) passed 10-0.

### **OTHER ITEMS RELATED TO DRAFT REPORT**

Scott Young said that we need to address the reluctance of TWC to answer the Board's questions.

Zygielbaum said that he would make any necessary editorial changes and draw up the final draft and we could discuss it at the next meeting. He asked that Board members get back with him regarding suggestions for changes, he would incorporate them in the document and give us a chance to discuss at the meeting.

Lee thanked Zygielbaum and Long for their work on the document.

**PUBLIC COMMENTS:** No one offered public comments.

**ADJOURNMENT:** Friedman moved to adjourn, Behlen seconded, motion passed 10-0. Meeting adjourned at 5:25 p.m.

**Next meeting:** Thursday, May 24, 4:00-6:00 p.m., location to be announced.

*(Added by the secretary: Location of the May 24 meeting: Eiseley Library, 1530 Superior)*

Respectfully submitted,

Jim Johnson, Secretary