

**MARIN TELECOMMUNICATIONS AGENCY**  
**MINUTES OF THE REGULAR MEETING**  
**OCTOBER 14, 2009**  
**SAN RAFAEL CITY HALL**  
**1400 FIFTH AVE., SAN RAFAEL CA**

**Present:**

Andrew Berman, Chairman, City of Mill Valley  
Susan Adams, Alternate, County of Marin  
Larry Bragman, Town of Fairfax  
Ted Freeman, Town of San Anselmo  
Christopher Martin, Town of Ross  
Bob Ravasio, Town of Corte Madera

**Absent:**

Larry Chu, City of Larkspur  
Richard Collins, Town of Tiburon  
Thomas Cromwell, City of Belvedere  
Barbara Heller, City of San Rafael  
Jonathan Leone, City of Sausalito

**Staff:**

Barbara Thornton, Executive Officer  
Gregory W. Stepanicich, General Counsel  
Suki Sennett, Clerk

**Agenda item A: Call to Order:** the Chair called the meeting to order at 7:03 PM.

**Agenda item B: Director's Comments:**

Director Adams asked about the status of collecting franchise fees from AT&T and had there been an audit. Executive Director Thornton responded that they had been paying each quarter and that she had been working with other entities on an audit. Director Bragman inquired about the status of the Los Angeles litigation with AT&T. General Counsel Stepanicich said he would report on it at the next meeting. Chairman Berman asked the Board to provide ideas for the 2010 Work Plan. He thanked the public and Board for their forbearance in the cancellation of the August and September meetings due to his and the Executive Officer's personal issues. He asked that the meeting be adjourned in the memory of John Kerby-Miller, Barbara Thornton's father who had done so much for the people of Marin.

**Agenda item C: Executive Officer's Report:**

Thornton reviewed that there is considerable work being undertaken at the FCC regarding the National Broadband Plan. The FCC has issued several notices requesting input as they develop the Plan. There is an important filing due to the FCC November 7, 2009 regarding the "Contribution of Federal, State, Tribal and Local governments to Broadband". She recommended that we support NATOA's filing comments and provide

financial support at this critical juncture. NATOA was requesting a minimum of \$500 donation, and a greater donation would be appreciated. Local communities must make a united front through these comments. There are significant risks to local governments if we do not act decisively. There were telecommunications industry player efforts underway to erode what we have left over communications issues such as local taxing authority, right-of-way management and local zoning authority which have been raised by the industry as impediments to further deployment of broadband. New rates for Comcast go into effect October 15 and on Basic Limited Tier on November 15. The largest jump was on the Basic Limited Tier. (17%). HR 3745, Community Access Preservation Act (CAP) was introduced by Rep. Baldwin (D-WI) on October 8. Alliance for Community Media and NATOA were sponsors. It addresses such issues as: allowing PEG fees to be used for any PEG-related purposes; requires PEG channels to be carried in the same manner as local broadcast channels; requires the FCC to study the effect state video franchise laws have had on PEG channels and requires operators to provide the greater of support required under state laws, or the support historically provided for PEG; and makes cable television-related laws and regulations applicable to all landline video providers. Director Bragman urged the Board to send a letter of support as a response to NATOA's call to action, particularly since the FCC had previously taken broadband out of franchise fees. Now there is so much migration from cable to broadband this issue should also be addressed. A Mobility Workshop for local government agencies was being planned by the County and MTA in conjunction with AT&T sometime in November. The focus was to help them address the types of applications that can be done that would provide cost savings and efficiency. There was no public comment.

**Agenda item D: Consent Calendar:**

*M/S/P Bragman/Adams, approve items D-1) Minutes of the July 8, 2009 Board Meeting, D-2) Budget Status Report, and D-3) Approval of Services Contract with Maher Accountancy for FY09 Audit and pull item D-4, MTA November Board Meeting Date and Location for discussion.*

AYES: ALL  
NOES: NONE  
Motion carried

Item D-4: it was ascertained there would be a quorum for the regular November 11th meeting and it would be necessary to make a change of location for that meeting because the San Rafael Council Chamber was closed for the holiday. The new location would be 555 Northgate Drive, San Rafael. The Chair asked for a motion.

*M/S/P Adams/Bragman, to change the location of the MTA Regular Board Meeting of November 11, 2009 to 555 Northgate Drive, San Rafael.*

AYES: ALL  
NOES: NONE  
Motion carried

**Agenda item E: Open Time for items not on the agenda:**

Steve Shank, 337 Lowell, Mill Valley, Board Member, Golden Gate Computer Society said Comcast's announced proposed encryption of signals had affected two types of his equipment, high definition TV and his computers with TV tuners, the primary method of getting TV in his home. He posed three questions: does the MTA have jurisdiction over encryption and does it have any authority in this matter? Does the jurisdiction matter whether the channels were broadcast or cable channels, or whether they were high definition or standard definition channels? Can the MTA influence Comcast to at least postpone their plans until descrambling equipment for computers were available? The Chair directed staff and Legal Counsel to respond.

**Agenda item F: Report on NATOA Annual Conference held September 30 – October 2, 2009:**

Suki Sennett thanked the Board for affording her the opportunity to attend the Conference. This was the lowest attended conference in NATOA's history, a result of local government's financial constraints on education and travel. She had attended six conferences previously and for the first time she had seen the FCC participating in the workshops and general sessions. They were there to tell us that the FCC had changed along with a new Washington: it was now data driven, transparent and no longer ideology-driven. They were more responsive to consumers and the needs of local governments. The big message to be taken away from the Conference was that local government was being heard and the future is ours if we want to take it. There were caveats such as attacks on our right to manage our rights-of-way, local authority over communications facilities and local government's involvement in community networks. Much of the conference had to do with multiple platform applications, with a focus on social media e.g. Facebook, Twitter, I-Pod, You-Tube. The Executive Officer had already told the Board about the National Broadband Plan and will bring the Board up to date later on Round 1 of ARRA (American Recovery Reinvestment Act). A particularly interesting workshop concerned Round 2 of the broadband stimulus, where we heard that areas close to urban areas were shut out in Round 1, certainly the MTA's experience. Another significant issue for the MTA, given our commitment to the new media center was that localism in the media was losing. PEG access programming was an important resource for localism. The future of NATOA was at stake, as it faced unprecedented challenges this year, similar to those of us in Marin towns/cities and the County. For small agencies such as the MTA, NATOA provided the vitally important advocacy for which we lack money and resources to pursue on our own. We cannot afford to lose this vital resource, especially at this crucial time. Chairman Berman said there were several important issues before the MTA including protection of our public rights-of-way, franchise fees for broadband use, migration from cable to broadband and the use of social media. Stepanicich commented that the FCC's definition of internet/broadband as an information service, not a cable service would need to be addressed. Director Freeman commented that he would like to have a clear definition of the MTA's regulatory powers. The Chair opened the item for public comment.

Norman Carlin of Sausalito congratulated Suki on her excellent report in the agenda packet.

**Agenda item G: Community Media Center of Marin (CMCM) Report:**

Michel Eisenmenger, CMCM Executive Director noted that he had been working with the Alliance for Community Media (ACM) on a California state bill similar to the federal CAP Bill. It had been discussed with Senator Mark Leno. It was important to talk to our representatives as it was crucial to remove limitations on how the 1% PEG money was spent under DIVCA. The Center was moving forward to connecting with AT&T and trying to work with them on SAP with an additional cost of \$1000 per channel. Annual membership: between 130-140. The Annual Membership Meeting would be on October 31 from 10:00 AM to Noon. The new studio was up and running with the first program, League of Women Voters candidates forums. CMCM would be starting studio training next week. The October 10 Launch Party was a success with 150-200 attendees. Mayor Boro cut the “ribbon”, Barbara Heller represented the MTA and Senator Leno also participated in the opening ceremony. He reviewed some of the coverage including the Mill Valley Film Festival, the Health Care Town Hall in Petaluma and the California Parks Hearing with Senator Leno. Director Adams asked about the issue of the League of Women Voters having to pay a fee for service for their candidates’ forums. Eisenmenger said that they had received a reduced fee package deal not only for their use of the studio but for covering their event at the Art and Garden Center, and that it was customary all over the country for non-profit media centers to charge a fee for service of some kind. He added the League could become members of the Center and cover their events for free, or at a much reduced cost. Citing the huge loss of localism, Chairman Berman encouraged Board members to have Eisenmenger make presentations to their respective councils. He pointed out that Norman Carlin was on camera covering the MTA meeting and had received his training at the Center. The issue of weaker signals assigned to Channels 26 and 27 was discussed. The General Counsel said he would look into the franchise agreement for coverage of that issue. There was no public comment.

**Agenda item H: Replacement of MTA’s Representative on the CMCM Board of Directors:**

Executive Officer Thornton said the Board could select the MTA appointee that evening or could choose to make the selection at the MTA Board’s November meeting. In accordance with the CMCM By-Laws, the MTA appoints 2 representatives to the CMCM Board of Directors. The current MTA appointees were: George Rodericks, City Manager of Belvedere and David Dodd, Director, San Rafael City Library. Dodd has indicated he wished to step down. The MTA Board may appoint a MTA member or may wish to appoint someone else as the appointee. The appointee serves a one year term, but may serve multiple terms. The CMCM Board meets on the 4<sup>th</sup> Thursday of each month at 4:00-6:00 PM at the Center in San Rafael. Discussion ensued. Direction to staff was to poll the Board for interest in serving and to bring it back at the November meeting. There was no public comment.

**Agenda item I: CMCM Government Channel Committee –MTA Participation:**

CMCM had proposed the creation of an advisory committee for the purposes of facilitating the programming content and scheduling of the Government (G) Channel. The role of the committee is: 1) Outreach to their county/municipal agencies to create an awareness of the channel; 2) Solicit pre-existing relevant video content for use on the

channel; 3) Refer production requests to CMCM as necessary; 4) Reach consensus on any programming/scheduling conflicts that might arise; 5) Ensure that the content is appropriate to the mission and guidelines of the channel; 6) Provide support and assistance to the CMCM in the facilitation of the channel. The committee would meet quarterly with additional meetings as needed. Primary communication would be handled on an email list serve. Discussion ensued regarding the composition of the committee, including restriction to staff and electeds. It was agreed that each member agency should be represented either by staff or elected official and each member agency should discuss it with their respective councils. The Chair requested Thornton to send out an email and get agreement on the appropriate type of appointment. There was no public comment.

**Agenda item J: Disabled and Elderly Low Income Discount:**

Director Bragman gave a status report. He clarified his statement in his August 13, 2009 Independent Journal *Marin Voice* regarding the rationale for the program. Low income, elderly and disabled residents should have access to basic cable services which were delivered over the public rights-of way. Historically, our franchise agreements provided low-income elderly and disabled subscribers with 20 % discount on basic cable services, the lowest tier of service offered. The discount ended in 2006 with the franchise renewal when Comcast only agreed to continue providing the discount to the pre-existing eligible subscribers. The eligibility criteria he was proposing was easy to implement: low income elderly (65 +), and disabled who are either SSI or SDI or Medicare recipients. The County Housing Authority and MCIL (Marin Center for Independent Living) had agreed to help. He proposed to disburse the funds through vouchers, such as bank cards. The MTA would keep the data base. He planned to have a formal proposal for a pilot program before the Board either next month or December. The Chair called for public comment. There was none. Discussion ensued with regard to potential program costs (estimated at \$12,000) to the member agencies and how to fund the program. Director Adams said one way previously discussed was to use a percentage of “excess” franchise fees for the program and perhaps also for the media center. Thornton was directed to prepare a cost breakdown for each member agency. A funding cap was proposed. Mill Valley and Fairfax Councils had previously approved funding the program. Director Ravasio said the Corte Madera Council had not approved it because most of the eligible recipients also subscribed to the higher tiers of service, there were few users to subsidize in the Town and the Council felt the number of recipients could grow over time.

**Agenda item K: American Recovery and Reinvestment Act (ARRA) Report:**

Executive Officer Thornton reviewed the status of the Round 1 Broadband application that she had worked on with Tom Robinson. The MTA ultimately was not able to make a submission. She outlined the reasons including that the Notice of Funding Availability (NOFA) guidelines were focused first on un-served and underserved areas identified by census block area. The lack of adequate broadband mapping at the census block level, and the detailed speed and access definitions required by the NOFA to identify un-served and underserved census blocks, resulted in MTA, even in West Marin, not meeting these requirements. This rendered them unable to prove qualified areas. When the Notice of Funding Availability (NOFA) was issued July 1, 2009 it limited the projects that MTA

could qualify for. The limitations in the NOFA included that it first focused on un-served and underserved Broadband areas, which even in much of West Marin MTA could not qualify for as per the NOFA definitions of how to qualify these areas. Secondly, anchor institutions in urban/suburban areas did not qualify for possible funding unless they were in un-served or underserved areas. This excluded Council Chambers and other anchor institutions in our area. And third, the “computer” aspect of the broadband funding had to be submitted as a separate grant and we couldn’t get the video to fit within the guidelines that were issued. As a part of the work, MTA had identified 15 locations as community anchor institutions to target for broadband. MTA worked with AT&T to extend the MIDAS network to these locations using BTOP funding, however in the end AT&T would not commit in writing to the nondiscrimination and interconnection obligations of the grant, which was another submission hurdle the MTA could not overcome. We heard that Rounds 2 and 3 may be combined. Senator Kerry has written a letter to the National Telecommunications Information Agency (NTIA) looking to expand the “anchor” definition to make it more favorable to institutions such as libraries, schools and hospitals etc. which were an important part of the ARRA legislation. The Chair opened the item for public comment.

Emily Sykes of Mill Valley asked for several clarifications with regard to identifying underserved areas. The Chair referred her to staff for information purposes. The Chair closed public comment.

**Agenda item L: Adjournment:**

*M/S/P Adams/Freeman, to adjourn in the memory of John Kerby-Miller.*

AYES: ALL

NOES: NONE

Motion carried

Meeting adjourned at 9:05 PM.

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Barbara Thornton, Executive Officer

APPROVED AS WRITTEN ON November 11, 2009