

Vermont Community Broadband Board Meeting Minutes
Meetings are being held virtually.
March 14, 2022

I. Call To Order – 12:03pm

II. Roll call completed by Patty Richards

Laura Sibilila (Remote)
Holly Groschner (Remote)
Patty Richards, Chair (Remote)
Dan Nelson (Remote, joined at 12:06)
Brian Otley (Absent)
Christine Hallquist - Staff (Remote)
Robert Fish – Staff (Remote)
Stan Macel – Staff (Remote)
Alissa Matthews – Staff (Remote)

III. Review of Agenda

Laura Sibilila suggested adding a periodic budget item to the agenda. Patty Richards proposed discussing as an item following Staff Update. Patty Richards made a motion to approve the amended agenda. Laura Sibilila seconded and the motion was unanimously approved.

IV. Approval of Meeting Minutes

The Board discussed the February 28th, 2022 draft Board Meeting minutes. Patty Richards moved to approve the minutes as amended. Holly Groschner seconded and the motion was unanimously approved.

V. Staff Recommendation: Purchase of Materials via the Preconstruction Grant Program (discussion and motion)

Christine Hallquist presented the staff's proposal to reallocate 4 million dollars and make amendments to the pre-construction program as a solution to enable the CUDs to pre-purchase materials. Rob Fish clarified that this solution was recommended by VCUDA after exploring the options of a Letter of Intent or another pre-award agreement in the Construction Grant program previously presented to the Board and determining those would not be sufficient.

Holly Groschner suggested that instead of authorizing this policy under §8085 (b) of Act 71, the Board should consider using the centralized resources language of §8087 (3) and allow the VCBB to purchase the goods on behalf of the CUDs and only release title to the CUDs once Construction Grant Agreements are signed.

Rob Fish agreed that there may be some benefits to having the purchases be centralized, but the State procedure for procurement is a major hurdle.

Patty Richards asked if there is a possibility that the VCBB could procure the wrong types and amount of materials if there is variation across plans. Rob clarified that this is where the Outside Plan Design Standards would be helpful.

Dan Nelson commented that the discussion around creating standards were leading towards this and perhaps VCUDA could be an agent to the State in making this happen.

Patty mentioned that this wouldn't be mandatory for the CUDs and that they could still be funded for the pre-purchase of materials. Holly stated she is directly opposed to the idea of pre-funding the CUDs because she has concerns about the process to re-acquire materials if that becomes necessary. Dan added that his view of it is more of an accounting function to ensure proper tracking that these materials are being used in the scope of the grants.

Rob reiterated the challenges associated with making such a large purchase under State procurement rules along with the fact that there is already fiber ordered that needs payment in the next few months. Holly confirmed that the large amount of money involved in these purchases is what causes her concern and would justify the VCBB holding title until construction is ready to start. Rob said that one option could be for the VCBB to pay for the fiber that was already purchased by the CUDs on letters of credit which could allow the CUDs to recycle those letters of credit for new purchases. Dan agreed that the State owning these materials in the interim may be the best solution.

Laura Sibilia and Patty Richards asked for feedback from VCUDA and the CUDs about this proposal. Will Anderson voiced support for the idea of the VCBB retaining ownership of assets until a grant is awarded and would be in line with the VCUDA proposal to find a way to pre-purchase materials. Patty asked if it made sense to take time to react to the new suggestion or if the CUDs would want to act on it now. Will confirmed that time is of the essence and urged the Board to make a decision instead of waiting until the next Board meeting. F.X. Flinn confirmed his preference would be for the Board to pursue this option and not delay the decision further.

Christine summarized the proposal that the VCBB will retain ownership of the materials until it gets properly dispersed through the Construction Grant Program, but there is flexibility for the CUDs to make their own purchases but if they do, we want the ownership of materials transferred to us. She stated that the VCBB does not want to put together a whole purchasing program managed by the VCBB, we want to rely on the procurement process the CUDs have already put into place in compliance with Bulletin 3.5. Holly clarified that in order for the VCBB to make payment on the materials the CUDs would transfer ownership to the VCBB and agree to store and insure it until it is released.

Rob Fish proposed a simplified solution that the VCBB is authorized to work through the logistics of paying directly for the fiber that has already been pre-purchased by VCUDA and NEK which would open up the letter of credits to purchase other materials.

Christa Shute reiterated two important issues this proposal needs to address, the fiber that was already ordered, is soon to arrive and need payment, and the second is the additional materials that have long lead times. Her experience from the NEK Community Broadband RFP process for key items like anchors, bolts, terminals and network equipment have 20-32 week lead times or more. She also pointed out that the fiber purchase was \$7 million and the VCBB is considering allocating \$4 million to pay towards that balance so there will still be a gap that may impact CUDs that are not ready to finalize their Construction Grant applications by this summer when the bills will be due. Chris and Holly then verified understanding that the CUDS would order the materials, they would be shipped to the CUDs with the expectation of issuing a bill of sale to the VCBB in exchange for the release of funds to pay for the materials.

Holly Groschner asked Christa to clarify NEK's letter of credit terms and payment schedule. Christa shared that the NEK letter of credit was specific for fiber with full leans against all fiber, with a 45 day payment term once received, and that is likely 30 days for the VCUDA letter of credit. Her concern is that it would not necessarily free up the line of credit to purchase other needed materials, it would effectively extinguish the line of credit which may enable the bank or other lender to get another line of credit but that is not certain and she would like the VCBB to find a way to make funds available address the concerns about

purchasing the other materials with long lead times.

Patty Richards made a motion that under § 8087 (3), the Board authorizes the VCBB staff to put together a purchasing plan to purchase materials that fits the needs of the CUDs where the VCBB maintains ownership. Laura Sibia seconded and the motion was unanimously approved.

VI. Recommended Policy Changes

- **Domestic Procurement Preferences – Outside Plant Designs and the Construction Grant RFP (discussion and motion)**

Rob Fish explained that after speaking with Finance and Management and Guide House and reviewing the new Treasury guidelines that domestic procurement not a requirement but rather a strong preference as appropriate and to the extent consistent with law. An exemption can be granted with detailed justification documentation. It does not negate the prohibition of certain Chinese companies or materials from Russia. The VCBB recommends that the Board update the Outside Plant Design Standards and Construction Grant RFP to clarify the process to seek this exemption and align with this new understanding of the domestic procurement guidelines.

Holly Groschner commented that it will be important that this is a transparent process and not solely a burden on the grant administrator. Holly then made a motion to approve the change. Patty seconded and the motion was unanimously approved.

- **Preconstruction Grant Amendments – When Necessary and Approval Policy (discussion and motion)**

Rob Fish outlined the proposal:

- Increases in the total amount of a grant require Board approval and a formal grant amendment to be executed.
- Changes to the allocation for an individual item already included in the scope and budget that have been previously approved or itemized as eligible expenses for the preconstruction program do not require Board or Staff approval or individual amendments. All changes must be noted in the monthly grant report.

Holly Groschner asked to confirm her understanding that this is not that there is a reallocation within the items authorized but the amount of funding is shifting from category to category among those approved categories. Laura Sibia asked if it was if there are budget items that have been approved and we are asking to be able to change the amounts of approved budget items or are we asking for the ability to add budget line items if the total amount is the same. Dan Nelson commented that he feels this is reasonable because since the CUDs originally put forward their plans, a lot has changed and they have matured and that it seems reasonable to give the latitude to the staff to approve those adjustments as long as it stays within the budget that has been approved.

Holly Groschner made the motion to adopt the proposal to allow staff to reallocate approved grant funds among the categories expressed in the grant as approved and those authorized to pre-construction grants in § 8085 (b). Dan Nelson seconded and the motion was unanimously approved.

VII. Construction Grant Reviews (discussion)

- **Proposed checklist to Review Business Plans**

Rob Fish shared the proposed Act 71 compliant business plan review checklist that will be used for reviewing applications. This checklist process be expanded to evaluate: Universal Service Plans, Overbuild, & Other Act 71 Requirements.

Patty Richards commented that she was pleased to see the housekeeping item included because it is important to ensure it is addressed. Holly Groschner expressed concerns around the living business plan terminology used and shared her recommendation to state that the VCBB wants a revised business plan with each grant application that is self-certified as accurate to the best of their understanding and belief.

- **Submission and Review Process**

The VCBB expects the first Construction Grant submission this week and Rob shared the tentative timeline for reviews.

- Applicants must submit the full application at least 10 days before a Board meeting to be addressed at that time.
- Once submitted, the VCBB Staff, Board and Consultants will do an initial review within 5 days and compile questions to share back with the applicant.
- Any response from the applicant will be due by the Wednesday before the following Board meeting so it can be included in the Board Packet.
- The applicant will be expected to be available to present any relevant information and answer questions at the following Board meeting.
- The goal is to have a grant application approved within two Board meetings.

VIII. Staff Updates

- Legislative - Christine Hallquist shared that staff continues to follow H.166. and Stan Macel confirmed that it still looks like it is not going to go anywhere. Christine is following up with Senator Ann Cummings to ensure the Act 71 changes are included in the Miscellaneous Tax Bill.
- Grants - Rob Fish reiterated that staff are working with an applicant on the submission of the first full application, that will be reviewed this week and staff are also fielding questions from other entities.
- Contracts – Alissa Matthews shared that VCBB Staff held the kickoff meeting with CTC, the Fiber Optics Engineering Consultant and are working on the process for sharing applicant materials and establishing the process for the reviews. She also shared that Staff are working with the GIS Consultants to evaluate options for submission of GIS data and shapefiles and are working with the CUDs to ensure they are set up with access to the VCBB Atlas.
- Legal – Stan Macel shared that a few proposals from Legal Consultants are being reviewed and will be discussed in Executive Session and confirmed that there was nothing else to share at this point beyond the items previously discussed in the meeting. Laura Sibilia requested that staff review and present on policy that may be happening at the national level in future meetings.

IX. Budget Agenda Addition (discussion)

Patty Richards led a discussion around the need to add updated budget discussions to the agenda and the protocol and frequency, monthly at most. Laura Sibilia shared her interest in nothing less than quarterly. Christine Hallquist confirmed that quarterly would be very doable. She has been working with the Public Service Department on getting a manageable format finalized, and the plan is to receive those on a monthly basis. Laura asked if those could get forwarded for general monitoring monthly and then have a more in-depth budget update on the Board Agenda on a quarterly basis. Holly Groschner added that it will be important to outline the legislature approval timeline and ensure that a quarterly review schedule allows for synchronizing of those key milestones.

Laura questioned if additional appropriations are on track or if there are any concerns at this time. Christine confirmed that she is in communication with the relevant Chairs of the appropriate committees and will continue to follow up.

X. VCUDA Update

Will Anderson provided an update for VCUDA. He confirmed that all CUDs have received one year licenses for ESRI GIS service and that there is an initial meeting scheduled for this week with Stone Environmental to get online and a subsequent training to get aligned to the Statewide Broadband Atlas.

Will discussed the Business Plans and stated clarity was needed on exactly what is needed in a business plan. There is specific concern regarding market analysis and costs associated with it, but Will felt that Christine's response was sufficient for the CUDs. Will urged patience for CUDs as CUDs develop these business plans.

Will provided a summary of expectations for the 2022 construction season. It is not expected that material delays will have a large impact on 2022 construction as the CUDs are planning on a goal of building 200 miles of fiber this year. Will stated that a major issue facing the CUDs will be difficulties in the labor market, however training programs and other avenues for labor are being pursued. Labor is a major threat to the upcoming construction season and VCBB may need to provide assistance.

Will discussed the advanced negotiations between Northwest Fiberworx, SoVT CUD and Google Fiber and confirmed that VCUDA is in support of these agreements.

Will discussed a lack of programs in place to promote affordable broadband and stated that VCUDA is in support of working with the Equal Access to Broadband (EAB) non-profit and that initiative should be promoted in terms of funding and capacity in order to facilitate affordable broadband programs. Christine voiced her support for EAB and added that NTIA will have additional funds to support digital equity and accessibility programs.

Will stated VCUDA is actively developing a program for shared services for Bond Counsel and Municipal Advisory and that he hopes to have it online for the CUDs very soon. Laura Sibilia discussed considerations related to shared resources and asked how decisions are being made about where those shared resources reside. Will stated that CUDs will be using these services as-needed and if they want to use the retainer contract they would Amend their Grant Agreement and transfer money to VCUDA to take advantage of these services. Will also noted VCUDA is open to other potential arrangements and that he is working with Rob on a few scenarios. Rob clarified that how this is rolled out depends on where the funding will be coming from, and that these conversations are ongoing. Laura questioned if we have any outline of what roles and services may be apt for delegation to VCUDA. Patty replied each area of expertise may have a different set of guidelines. Christine stated that it has been discussed

and a formal proposal can be presented at the next VCBB meeting. Rob questioned whether a Grant can be issued to VCUDA or if these services can be delegated via contract, that answer is currently unclear to Staff.

Holly asked for VCUDA to present a long-term vision of VCUDA and how the VCBB may support or augment their vision.

XI. Public Input

One member of the public provided input:

- F.X. Flinn from EC Fiber shared that he testified on S.166 and was surprised that the information he shared was not very well known or understood. He feels like the related bullet point on the Business Plan is reflective of the same misunderstanding of the information.

XII. Parking Lot Review

Christine Hallquist reviewed the four open topics in the parking lot:

- Research on telecom marketing budgets – Christine’s research found a benchmark of 10%. Patty and Laura clarified that they are interested in what smaller regional companies or cooperatives benchmarks are. Christine responded that it may need to be pushed off until other priorities are addressed by Staff.
- Opportunities for statewide marketing collaboration – this has been addressed for now.
- Material default policy – Stan Macel confirmed he should be able to provide an update at the next Board meeting.
- VCBB Dashboard – This is ongoing and Stone Environmental will present progress at the next Board meeting.

XIII. Agenda for Next Meeting

Christine Hallquist reviewed the additions for the next agenda:

- Budget update with proposed reporting schedule and methodology
- Shared services proposal with VCBB and VCUDA
- Equity and affordability proposal
- Presentation or report from a national privacy advocacy organization

XIV. Executive Session

Patty Richards made a motion to go into Executive Session where premature general public knowledge would clearly place the public body or a person involved at a substantial disadvantage (1 V.S.A. Section 313). Dan Nelson seconded the motion. The Board approved the motion and went into executive session.

Patty Richards confirmed that no action was taken in the Executive Session. The meeting lost quorum and was adjourned at 3:00pm.

