

Vermont Community Broadband Board Meeting

Monday, February 12, 2024, 12:00pm – 4:00pm

Meeting Minutes

I. Meeting Call to Order, Roll Call, and Approval of Agenda

Patty called the meeting to order at 12:03pm and completed roll call:

- Patty Richards (Remote)
- Laura Sibilila (Remote)
- Brian Otley (Remote)
- Holly Groschner (Remote)
- Dan Nelson (Remote)
- Christine Hallquist - Staff (Remote)
- Robert Fish – Staff (Remote)
- Alissa Matthews – Staff (Remote)
- Toni Clithero – Staff (Remote)
- Heryn Herzog – Staff (Remote)
- Britaney Watson – Staff (Remote)
- Lucie Fortier – Staff (Remote)
- Alexei Monsarrat - Staff (Remote)
- Thomas Malinowski – Staff (Remote)
- Stephanie Tuxill – Staff (Remote)

Ms. Richards made a motion to approve the agenda. Mr. Nelson seconded the motion. Ms. Richards discussed modifying the agenda to discuss the scheduling of the February 22, 2024, meeting. Ms. Sibilila requested an executive session to discuss personnel. Ms. Hallquist requested adding the introduction of Ms. Fortier. The motion carried by unanimous vote. Ms. Fortier was introduced to the Board and welcomed to VCBB.

II. Summary of reappointments.

Record of the reappointment of Ms. Groschner; status report on the reappointment of Ms. Sibilila. Ms. Sibilila moved to reappoint Mr. Nelson as the Vice-Chair, seconded by Ms. Groschner. The motion carried unanimously.

III. Public Comment

Christa Schute of NEK Broadband requested that the policy subgroups meet again before the policies are submitted to the Board and expressed concern that the annual report incorporates many of the policies which may undermine the policy approval process. She objected to reviewing the KPIs monthly. She also requested the Digital Equity Plan be revised* to eliminate the reference to the 1% income level relative to the affordability metric. Christine advised that the metric had been previously removed. Ellie DeVillier of Maple Broadband also requested the removal of the 1% reference and on the need to distinguish between funding that stands up a program that lasts long-term versus a program that lasts until the money runs out. She also noted that the fact that because the annual report encompasses many of the policies being drafted that care be taken to assure the Annual Report does not overwrite the policies.

IV. Approval of January Meeting Minutes

Ms. Richards moved to approve the January 4, 2024, meeting minutes. Mr. Nelson seconded. It was approved unanimously.

V. Digital Equity Plan Approval – Britaney Watson

Britaney Watson highlighted areas of the Digital Equity Plan (DEP) draft for Board approval to be submitted to the National Telecommunications and Information Administration (NTIA) by February 12, 2023. The plan includes a digital equity needs assessment, asset inventory and an implementation plan. The plan is written to prepare Vermont for NTIA grant funds for the implementation phase as well for the digital equity plan. The plan will be in the curing process with the NTIA for 45 days, which will end the period of performance on March 28, 2024. Public comments and CUDs' feedback provided by VCUDA are also part of the plan. There was a discussion of the curing period after the plan is submitted and if changes could be made. Clay Purvis, NTIA Federal Program Officer (FPO), provided clarification on the process. Ms. Richards requested three changes to the DEP: removal of the 1% figure from the DEP and the Annual Report and the addition of a paragraph describing the Board's ongoing accountability policy development. She made a motion that we approve the DEP with the three changes referenced. Ms. Sibilia seconded the motion. It was approved unanimously. Final drafts of the policies will be presented to the Board for the March 11, 2024, Board meeting.

VI. Presentation of GIS Performance Monitoring Services Based on Ookla Data– Christine Hallquist

VII. Discussion concerning Staff's preliminary decision to enter into a \$62k/year contract with Ookla for customer speed test data. Mr. Otley noted that all ISPs have access to this data and acknowledged that the VCBB could use this information to independently confirm the data. He and Ms. Groschner acknowledged the issue of staff technical capacity and Ms. Hallquist advised that the plan was to add the technical review to Stone Environmental's scope of work. Mr. Nelson suggested the contract be tested for an initial trial period of one to two years. Ms. Richards indicated support for the data and raised concerns about potential data mining by third parties. She objected to any use of the data by private parties, requested that Ms. Clithero research that issue, that any contract with Ookla include Ookla's agreement to comply with the State's consumer protection and net neutrality law, 3 V.S.A. § 348 and instructed VCBB not to enter the contract without that provision. Mr. Nelson noted that the data is coming from customers who have opted to participate in the program. Ms. Matthews advised that Stone is prepared to enter the contract with Ookla if necessary. Ms. Schute explained that her CUD needs the data to qualify for a \$22.7M grant and also noted its value for the VCBB Challenge Process under BEAD.

VIII. Key Performance Indicators for Grantees – Christine Hallquist

To address Board concerns over timely notifications of potential defaults by the CUDs, Ms. Hallquist presented her plan for monthly meetings with the CUDs to review key performance indicators (KPIs). The KPI's would provide for a comparison of planned vs actual: expenditures; construction miles built, and construction miles lit; eligible addresses;

eligible passings; and planned passings lit. This approach would both address the Board's notification concerns and the CUD's objections to providing this information to Staff on a monthly basis and be included in quarterly Staff reports to the Board. Ms. Richards instructed Staff to use the KPIs listed by Ms. Hallquist and for a check-in with the CUDs after six months to assess the usefulness of the data. Staff will report on the KPI's to the Board quarterly*.

Ms. Sibilia raised the issue of how Staff will determine whether SoVT CUD is meeting its accountability obligations under the grant agreement. Discussion concerning the timing of SoVT's completion of its construction grant and the Board's accountability policies, with Ms. Hallquist advising that Staff will report back on the issue. Ms. Sibilia emphasized that the legislative intent for universal service includes accountability measures to ensure reliable and affordable broadband via the CUDs. Ms. Groschner requested a grant close out report that complies with the 30 V.S.A. § 8086 statutory criteria*.

IX. Annual Report Discussion and Approval – Herry Herzog

Ms. Herzog shared a presentation and highlighted key points. Based upon Ms. Groschner's suggestion, the report will be revised to clarify that the policies enumerated therein have not yet been adopted by the Board*. Ms. Groschner also noted that she agreed with the text regarding affordability, which provides that "the legislature has directed the VCBB to balance the sustainability of the grant funded network and the affordability of each grantee service." Ms. Richards requested that with respect to the consumer standards certification, language be added indicating that in addition to 3 V.S.A. §348, the certification is also required by the Board in its proposed Consumer Protection Standards Policy and in its reporting requirements.

X. BEAD Subrecipient Support Applications – Rob Fish

Mr. Fish advised that the purpose of the program is to encourage potential BEAD subrecipients to apply for BEAD by providing financial support for preparing their BEAD applications. Mr. Fish explained the competitive process for the applications and the allocation of funds. Staff recommended that all three applications be awarded the grants: NEK Broadband, Otter Creek CUD and CV Fiber. Ms. Groschner noted the confusion in the naming of the program, which appears to concern subrecipients rather than potential subrecipients. Ms. Richards raised the issue of favoring certain applicants. Ms. Groschner requested to move into executive session on the grounds that information may be proprietary to one or more of the applicants. Ms. Clithero agreed and provided the statutory support for discussion of exempt public records, negotiations and trade secrets, 1 V.S.A. §313(a)(1)(A) and (a)(6). Ms. Richards had to leave for a personal emergency and appointed Mr. Nelson to assume her duties as Chair.

Ms. Sibilia left the meeting at the end of the executive session, which ended at 2:35 p.m. Mr. Nelson announced that the Board took no action during executive session.

He made a motion, seconded by Mr. Otley to approve the three (3) applicants and for the following amounts: CV Fiber \$145,600; NEK Broadband-\$200,000; Maple Broadband-\$100,000. The motion was voted on by the three remaining Board members-Msrs. Nelson and Otley and Ms. Groschner and passed unanimously.

XI. VCUDA Updates – Rob Vietzke

VCUDSA reported that it had reappointed Ms. Sibilina to the Board and that on January 31 VCUDA held a legislative day at the State House. Mr. Vietzke discussed the various bills in the legislature, including proposed changes to the universal service charge supporting the VCBB, as well as on-going discussions about grant process and audit reviews.

XII. Public Comment

F. X. Flynn commented on the GIS Performance Monitoring Services Based on Ookla Data and provided clarification on the type of data the application gathered.

XIII. Parking Lot – Christine Hallquist

Ms. Hallquist highlighted completed areas and areas still in the works, such as policies.

XIV. Executive Session: Ms. Groschner moved to go to Executive Session under 1 V.S.A. s. 313(1)(A) re CV Fiber and NEK Broadband matters. Ms. Sibilina, who returned to the meeting, seconded.

The Executive session ended at (3:36 p.m.). Mr. Nelson announced the Board took no action in executive session.

XV. Executive Session: Ms. Groschner moved to go to Executive Session under 1 V.S.A. s. 313(1)(A) to discuss DV Fiber matters. Mr. Nelson seconded.

The Executive session ended at (4:04). Mr. Nelson announced the Board took no action in executive session.

XVI. Executive Session: Ms. Hallquist announced that the Board was going into Executive Session to discuss personnel matters and that the meeting would end because the Board would not have a quorum upon its return.

Press inquiries--Please contact Heryn Herzog, Heryn.herzog@vermont.gov, (802) 522-3396.