

Vermont Community Broadband Board Meeting Minutes

**112 State Street, 3rd Floor,
Giga Conference Room
Montpelier, VT
January 18, 2022**

I. Call To Order – 9:09am

II. Roll call completed by Patty Richards

Brian Otley (Remote)
Holly Groschner (Remote)
Dan Nelson (Remote)
Patty Richards, Chair (Remote, joined at 10:17)
Laura Sibilila (Absent)
Christine Hallquist - Staff (In-person)
Robert Fish – Staff (Remote)
Stan Macel – Staff (Remote)
Alissa Matthews – Staff (Remote)

III. Review of Agenda

There were no changes to the agenda.
Holly moved to adopt the agenda. Brian Otley seconded. Motion passed.

IV. Approval of Meeting Minutes

The Board discussed the January 3rd, 2022 draft Board Meeting minutes.
Brian Otley moved to approve the minutes, with corrected spelling of Chris Recchia adjustment. Dan Nelson seconded. The motion was approved.\

V. State Legislative Updates and Action

Stan Macel presented an overview of a proposed amendment to Act 71 changing the language regarding distribution of a CUDs assets in the case of dissolution. Staff suggested language edits to provide that upon bankruptcy a CUD's assets will be subject to receivership by a court-appointed receiver in the event of a dissolution instead of being recouped solely by the State.

Holly Groschner asked if the language has been reviewed by bond counsel and Christine clarified counsel had been consulted but had not yet vetted this specific language. The idea is that in the event of a CUDs bankruptcy, receivership guarantees the State, along with all other debtors, gets paid instead of having the State be the first in line to be paid in the event of default. Discussion included the difference between dissolution for reasons other than bankruptcy and the need to be clear about what triggers a CUD's assets to go into receivership.

Action items coming out of this were:

- Staff will vet new language with potential lenders, including banks and Paul Giuliani, who is EC Fiber's bond lawyer.
- Based on these discussions Staff will work on new language to propose at the next board meeting.

Stan Macel then discussed S.166, which proposes enhanced cleanup provisions for utility construction sites. Holly does not feel it is appropriate for the Board to weigh in either way on this bill, and everyone concurred.

Stan Macel informed the Board of S. 222 which proposes to allow electronic-only meetings through January 15, 2023. The Board understood that if this bill passes it will apply to the Board and all CUDs, and unanimously agreed to remaining entirely remote and virtual.

Stan Macel then discussed S.167 which proposes an extension of the date to achieve statewide access to 100/100 Mbps from the end of 2024 to the end of 2029. Christine Hallquist will be testifying before Senate Finance Committee later this week that 2024 is not reasonable and should be amended to 2029. Holly Groschner made a motion for the Board to support this Bill but it was decided that the Board does not need to weigh in further if Christine will be giving expert testimony on the issue.

Request made to include a legislative update on all future agendas.

VI. Financial Report

Christine Hallquist presented the format that she will use to provide financial reports to the Board, at the meeting following the 10th of each month.

Items discussed included:

- Two lines are soon to be added - a Project Developer (limited service staff position) and a Fiber Optics Engineer Contractor.
- Christine Hallquist will change the format to have budgeted versus actual expenses side-by-side.
- The Board agreed that as long as the new format is complete, given the cost codes that the State would expect to see, it should be fine.
- Rob Fish clarified that the H.315 Funds were transferred over as interim support and \$1.6 Million was distributed through capacity building pre-construction grants and are obligated in grant contracts.
- The remaining funds that are committed to the VCBB, but not yet obligated in contracts, are planned to provide additional support to the CUDs through possible grant writing, fundraising, legal, or other services.
- Christine Hallquist will adjust the budget format so that the H.315 funds are included in the overall budget.
- Staff are working to get the rest of the ARPA pre-construction grant funds obligated.

VII. Federal Legislation and Rule-Making

Stan Macel presented an overview of the federal Infrastructure Investment and Jobs Act (IIJA) which includes \$65 Billion in new investments for broadband over five years. This includes the FCC's Affordability Connectivity Program (ACP) which is a successor to the Emergency Broadband Benefit (EBB) and is proposed to reduce the support from \$50 to \$30 per month limit but eligibility is broadened and households can receive a one-time discount of up to \$100 for a tablet from a participating provider.

Staff asked if VCBB should take action to promote the ACP program and if so how. Rob Fish added that final treasury rules for ARPA funds require participation in ACP if providers are receiving funds. It's an important program but there's a low take-rate. Staff is seeking Board guidance on how to help CUDs and other providers participate and get Vermonters to sign-up.

Holly Groschner is President of Equal Access to Broadband, a non-profit funded by ECFiber and other private contributors. Issues with EBB & ACP that she addressed included:

- Difficulty for low- income households to access these subsidies, with an almost two hours per household registration time, so non-profit assistance is necessary.
- Most CUDs and ISP are not set up as social services, and this assistance is not built into customer service response time for commercial entities.
- Social Services Agencies are already overwhelmed providing food, heat, and other social services.
- Reduction of subsidy negatively impacts rural broadband customers and individual ISPs may need to add subsidies.
- Just promotion is not going to be effective - financial literacy is needed to understand what telecom opportunities households have to reduce costs.
- Experience has shown the best point of contact is through Supervisory Union Districts, technical managers in the school systems, and Community Action Agencies.

Dan Nelson would be in support of funding a marketing campaign that does not duplicate but complements what is already being done by the Public Services Department and is aimed at increasing the take-rate and helping Vermonters sign-up for this program.

Stan Macel then discussed the National Telecommunications and Information Association's (NTIA) request for public comment due February 4th, 2022. The notice includes a list of questions and the Public Service Department plans to provide comments and requests VCBB to contribute in conjunction with partners including the VT League of Cities and Towns. Christine Hallquist also mentioned that State Broadband Leaders Network has concerns about the accuracy of the FCC data being used to allocate the funds.

Holly requested that staff bring up areas of focus that they believe are issues within the questions. Brian Otley suggested that the Board already weighed in on many of the topics NTIA is seeking input on, that the Staff reflect prior opinions and discussions in their comments. Dan Nelson requested that VCBB Staff and the Public Service Department share draft of their coordinated response with Board.

Christine Hallquist raised concerns about data accuracy and would like to establish a real time network performance monitoring standard so that there is no reliance on self-reporting. This will be one of the areas for feedback to the NTIA and Staff would like input from Dan Nelson and Brian Otley on what performance standards should be.

Dan Nelson proposed that as proposals come in, applicants describe their network reporting capacity which should be in place as part of their network design. Brian Otley clarified that VCBB is not looking for real-time reporting, but periodic reporting on real-time monitoring.

Stan Macel discussed a potential conflict between a provision of IJA and Act 71. Holly Groschner clarified that IJA does not preclude Act 71, it puts a condition on participation. No reconciliation of this conflict is planned, but VCBB should raise awareness that additional changes to Act 71 may be needed to align with final rules of IJA.

Dan Nelson suggested that CUDs prepare to carefully manage their deployments, so dollars can be allocated in the fringe areas effectively.

Stan Macel provided a summary of the final rules issued by the Treasury regarding the State and Local Fiscal Recovery Fund (SLFRF) guidelines under ARPA and reviewed the updated eligibility and additional requirements of recipients.

VIII. Staff Updates

Christine Hallquist will be presenting a status update to Senate Finance this week. Workforce development program is gaining momentum, ACCD is now involved along with VTC and VCCV to fill in a long-term labor pipeline but now working with Communication Workers of America for short-term construction labor solutions.

Rob Fish shared that this week the Broadband Construction RFP will be posted, finalizing the Fiber Optic Engineer RFP, doing more outreach for Project Developer position, applied for a match waiver from Northern Borders Regional Commission to give more flexibility to be able to leverage other types of financing with the Rural Forest Economy Partnership Grant.

Alissa Matthews will be managing the contract for the State's GIS project and assisting with drafting RFPs for other service contracts, the new Grants Administrator at the Public Service Department is working centralize reporting, streamline processes related to federal guidelines, and ensuring lines of communication are effective with the Department. Christine Hallquist will be attending the State Broadband Leaders Network Meeting in March.

IX. VCUDA Update

Will Anderson provided an update for VCUDA. He discussed the priority to get a hold of the new RFP from the VCBB and will be the major focus in the coming months.

VCUDA has not taken a position on S.166 or S.167 but will have a discussion about them. Expressed concern over opening up ACT 71, considering the amount of work that has gone into the bill.

Discussed the workforce survey deployed through the Department of Labor and although they did not get the quantity or quality of responses desired, the conclusion is there was support for expanded training and apprenticeship programs with Vermont Community Colleges. Additionally, the survey showed that the contractors available to be hired by CUDs in 2022 have a stable workforce but they do not have additional capacity to hire, train, and conduct additional projects. Capacity is going to need to be much greater for bringing short-

term effective labor into Vermont considering there are seven CUDs needing to buildout drastic solution for construction.

He briefly discussed ACT 71 clause of where assets would go in the event of a CUD failure and supports the proposal of receivership language to address concerns when CUDs seek third party private sector funding. Vermont Economic Development (VEDA) loan programs are not suitable for CUDs based on current Act 71 language and unfavorable interest rates and he feels that a more innovative solution is needed in order for CUDs to utilize grant funds in parallel with loan funds. He suggested that VEDA should have a more community public oriented approach and should work with VCBB and possibly the Vermont Community Foundation to start a lower-interest loan fund that does not conflict with ARPA funded grants.

Holly Groschner suggested the VCBB take a closer look at Act 71 obligations for VEDA and the VCBB's responsibility to work with VEDA and raised the importance of understanding the legislative intent. Rob Fish added that VCBB has been in discussions with VEDA regarding how they can play a larger role. The challenge is that ARPA funds can not cover finance charges and a revolving loan fund is not favorable, but they are exploring other opportunities to make the funding packages more attractive. Will Anderson wishes to join those conversations.

Rob Fish announced the Administration's support of an additional \$195 million from the Infrastructure Bill to support broadband infrastructure, but it still needs to be approved by the legislature including getting through several committees including Senate Finance, House Energy and Tech, and the Appropriations Committee. It will apply to the budget that would be effective July 1st, 2022, but the VCBB's intent is that the majority of it will be added to the funds available through the Broadband Construction Program. Will Anderson committed to providing support in securing that funding from the legislature.

Holly Groschner suggested that as a matter of public relations the VCBB publish an editorial coming from Patty Richards on behalf of the full Board to be public with support for additional resources.

X. Public Input

One member of the public provided input.

- Steve Huffaker stepped forward to ask when CUDs should expect the Construction RFP to be released and Rob Fish confirmed that they should see it by the EOB January 18th, 2022.

XI. Motion to Adjourn

There was no need for an Executive Session. Dan Nelson made a motion to adjourn. Patty Richards seconded the motion. The meeting was adjourned at 11:17am.