

Vermont Community Broadband Board Meeting Minutes
Meetings are being held virtually.
February 28, 2022

I. Call To Order – 12:02pm

II. Roll call completed by Patty Richards

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

III. Review of Agenda

There was no motion to make changes to the agenda and Patty proceeded with the meeting as indicated.

IV. Approval of Meeting Minutes

The Board discussed the February 14th, 2022 draft Board Meeting minutes. Patty Richards and Holly Grochner asked for changes. Patty Richards moved to approve the minutes as amended. Brian Otley seconded. The motion was approved.

The Board discussed the February 18th 2022 draft Special Board Meeting minutes. Brian Otley asked for a correction. Patty Richards moved to approve the minutes as amended. Brian Otley seconded. The motion was approved.

V. Bond Bank Presentation & Q&A

Christine Hallquist introduced Michael Gaughan from the Vermont Bond Bank. Michael provided a brief overview of the VT Bond Bank's role and an introduction to what municipal bonds are, how they typically work, and presented several topics including: the value of tax-exemption; municipal market overview; benefits of public offering; survey of broadband related security structures; credit analyst approach to broadband; and relevant example case studies.

- Holly Groschner asked how the projected take-rate or the reserve contingency funds, things that project outward get monitored. Michael explained that it is really two questions, how you deal with projected systems or systems that are in the process of being built out. He referenced the project finance ratios from Moody 's example he shared to highlight how investors rating agencies are going to look for higher debt service coverage and projections on things that are subject to revenue growth and the other thing that they're probably going to want to see is some sort of 3rd party independent analysis of the projected revenues that can be included in the offering memorandum as a document for investors to review and that would include an industry expert looking at take rates are going to look like in correspondence with the build out

of the system what they project revenues to be for fact checking. Holly confirmed she understood that as a pricing response, which she can appreciate and rephrased her question to consider what the experience of a CUD might be to understand if there is a covenant in this arrangement that causes you to report performance every year because there is so much unpredictability in these construction markets. Christine Hallquist added that revenue growth is interdependent on getting things built in time, but also depends where you are building – it would be faster in unserved areas but slower in cable overbuild areas, so she wondered what the tolerance is in terms of revenue growth. Michael explained the policing happens by two means, the public disclosure agreement, posting timely financial and operating reports and more often than not the actual covenant reports will be due to the trustee annually or quarterly and on file for review. Once that debt is sold it matters to the extent you want to sell more debt. This is hard debt, the capital markets are not very flexible. He described a variety of bond options with varying returns dependent on what you are willing to pay, but many would be sub-optimal. Michael added that it is important to remember that this is tax exempt debt, and so it starts to look like an equity return and you basically have about two years to capitalize interest. Christine then asked what if they're going to do a bond over 40 years instead of a 30 year period. Michael responded that it depends on the rate environment you are in.

- Patty Richards asked what would be considered a technological risk in the broadband industry. Michael responded that he is not an expert in broadband, but likely things like satellite or cell phone hotspots. Christine added that the CUDs would likely have a low technology risk.

Michael then discussed things to consider for future broadband debt

- Globally engage independent registered municipal advisor (“IRMA” or municipal advisor) to develop plan of finance and rating strategy for all CUDs; at time of pricing, can ensure fair price of the bonds as well as fair compensation of underwriter
- Globally engage bond counsel to avoid relearning tax issues in each CUD and standardize documentation to lower transaction costs and develop market
- Consider other shared service contracts and/or pre-qualified pool of bond specific professionals – Ex. independent third-party feasibility and market report to accompany bond offering if substantial amount of the revenues for repayment of the bonds is projected
- Identification of systems and amount of debt that may be substantially supported by a private entity, either through operations, guarantees, or some combination; Infrastructure Bill included expansion of Private Activity Bond authorization to broadband (allowing tax exemption), if following met:
- Qualifying projects provide broadband service to 1 or more census block groups in which more than 50 percent of residential households do not have access to fixed, terrestrial broadband service which delivers at least 25 megabits per second downstream and at least 3 megabits service upstream
- Broadband can be provided to both residential and commercial locations, so long as 90% of such locations did not previously meet the speed criteria
 - New broadband speeds must be not less than 100 megabits per second for downloads and 20 megabits for second for uploads

- Need to identify amount of volume cap that will be needed prior to debt being issued

Christine Hallquist asked Michael to confirm that the transaction costs are fairly high and his recommendation is that we try to combine as many of the CUDs as possible. Michael responded that once the type of debt needed is known, then you can consider different ways to structure it. A pooled loan structure would work if they all need long term financing at the same time, but to the extent you have a resolution or trust indenture for a government entity that is the same in all cases then you can customize that for each CUD rather than creating a new document each time.

Patty Richards asked if it may make sense for VCUDA to be responsible for the bond counsel and other advisors because VCBB will not be getting into the specifics of the debt issuance. Michael said he doesn't see a concern in doing that, his biggest concern would be finding a way to reduce interest payments in a way that is practical.

Laura Sibilgia asked for Michael to walk through how multiple CUDs could be grouped together. Michael explained how the Vermont Bond Bank has a parity structure, but explained that wouldn't work with such few entities, but you could potentially do something where everyone is joint but separate in terms of their payment within a pool loan structure but they would need one global entity whose name is on the debt. This is something an independent registered municipal advisor could advise on the most appropriate and efficient way to raise capital. He added that he wasn't saying this is necessary and that if CUDs are large enough they could access the municipal bond market on their own. Laura asked Michael what is large enough. Michael responded \$8-10 million. Laura then asked Patty Richards to clarify if her preference was for the municipal bond advisor to be handled by VCUDA or the VCBB. Patty confirmed that not necessarily the case for the advisor, but that the bond issuance should not be handled by the VCBB. Laura reiterated her support for hiring a municipal bond advisor. Rob Fish agreed that there is a need for a bond counsel or municipal market advisor as a shared role to supplement the Project Developer position when hired.

Holly Groschner asked Patty if she felt clear that an aggregated offering should not happen through the VCBB or if it was worth having general counsel review the authorization. Patty responded that she would appreciate hearing Stan's opinion on the issue. Brian Otley agreed with Patty that it would be a departure from the Board charter to get involved with issuing debt but he would be curious of the CUDs opinion if the VCBB was even able to take this path.

F.X. Flinn shared that the bond counsel for ECFiber is the same bond counsel for VCUDA so the process is becoming pretty routine. He added that as a perspective investor and as somebody who has done the background work that goes into those bonds, his opinion is that it would become too complicated to have a multi-participant bond shared by the CUDs but if the Bond Bank wanted to get in the business of revenue bonds for this sort of thing it might be a different story.

Stephen Friedman from the Lamoille Fibernet Board agreed with Michael that it would make sense to have a common structure and marketplace developed. Patty asked Stephen if he would support VCUDA getting counsel as an additional common service to provide.

Christa Schute from NEK Broadband added that they would only be interested in bonding independently, but she does agree with the idea of VCUDA providing bond council and a municipal advisor. She is curious on what role the Vermont Bond Bank is purposing that they might play. Michael explained that the hurdle the Vermont Bond Bank faces is that 100% of their existing portfolio has taxing authority so it would potentially raise their traditional borrowers' rates, but they are supportive, and it doesn't preclude something down the line but

they would need to segregate the risk.

Val Davis asked what the logistics would be and the timeframe for getting a revenue bond. Michael explained that there would typically need to be three years of revenue statements depending on the rate you are trying to get.

F.X Flinn added a comment that Jim Anderson has been discussing that ECFiber's success could be used by the CUDs to show how this model works, and municipal revenue bonds could be floated after just a year, and encouraged other CUDs to take advantage of the information that could be provided.

Christine Hallquist made the recommendation that VCUDA obtain municipal bond counsel and make a grant request to the VCBB to cover those services. Rob Fish added that the Board has not clearly made a decision on whether they could provide a grant to the Association. Will Anderson added that they do already provide services and he could see this being a shared service but that it would need to be paid for by the VCBB. Patty Richards added that her interpretation of Act 71, Section 8087 is that we have a mechanism to grant funds for centralized resources, but the route to move forward needs to be decided by the CUDs.

VI. Material Default (materials included, discussion)

Christine explained VCBB staff have started to revise the document on material default as requested by the Board at the last meeting. Stan Macel presented a summary of the feedback received from the questions posed to the CUDs, which included a request for longer than a 30-day correction period and to consider other factors in addition to bond covenants and financial agreements when considering material breach.

Holly Groschner commented that we have posed a lot of questions to the CUDs and that staff should consider other default procedures used in construction or other municipal grants. She agreed 30 days was not enough time to fix some types of defaults, and a longer remedial period is often needed. Stan agreed to review other State grants for default provisions and to come back to the Board at the next meeting. Patty Richards agreed that the State must have some examples to reference.

Christine added that perhaps instead of a period in which to fix the error and perhaps we could have a deadline to develop a corrective action plan. Holly explained that the need is to establish what materiality means on a legal basis and identify specifically those triggers.

VII. Letters of Commitment (materials included, discussion and motion)

Christine Hallquist provided background regarding the long lead time for sourcing supplies and sees Letters of Commitment as a way to help CUDs pre-purchase materials.

Stan Macel presented a memo that he drafted based on conversations with Guidehouse and clarified that these would be Letters of Intent to address concerns raised by the Board at the last meeting regarding risk of legal obligation. The Letters would only be issued after eligibility screening and invitation to submit a full proposal. In the case the Board declines to issue a grant then there would be a thorough justification of denial.

Holly Groschner explained that this feels like we are pre-authorizing the entire project, and would urge the Board to not only require a screening, but also identify what exactly the funds are being used for.

Christine clarified that this process was always intended to assist CUDs in accessing specific materials. Rob Fish added that this would be used to help CUDs start conversations with

providers and vendors for materials that are known to have a significant lead time.

Laura Sibilgia asked what the Board's obligation is once these letters are issued. Stan clarified that there is no legal obligation. Christine explained that in conversations with Guidehouse, this is considered a tool in negotiating in good faith.

Holly asked if the grant applications for construction include specific bolts and parts so we can identify where the urgency exists. Christine responded that they do not include an entire bill of materials but provided the example that if there is a hold up of getting a single bolt it could hold up construction for a year or more.

Patty Richards wants to review the memo and table the action. Laura Sibilgia agreed and added that she continues to question the legal obligations. Holly commented that she understands the need but stated there is not an administrative process in place to handle something like this. Patty added that in the electric sector a letter of intent is written with several caveats and is explicitly a non-binding. Christine confirmed that staff thoroughly reviewed this with Guidehouse, and that this is not binding. Holly asked if it would meet the need to issue a generalized letter that recognizes the organization as a CUD and explains the Board has a specific grant allocation it anticipates awarding up to a certain amount to each CUD. Patty, Laura, and Brian agreed, if that is enough to aid the CUDs. Holly suggested that Stan draft something and take it to a relevant vendor and if they reject it then we know it is not enough.

VIII. Staff Updates

Christine Hallquist shared that staff testified on two Legislative items last week. House and Energy asked us to present needs of the VCBB, and Christine continued to defend the need for \$350 million over a three-year period. She explained that accompanying the discussion for need for revenue is the cell tower discussion. Laura Sibilgia commented that it should not be an issue the VCBB should expect to get pulled into. Christine was also asked to comment on S.166, the housekeeping bill, she did but not much to report back.

Christine also added that the VCBB submitted the ACT 71 changes that were approved by the Board have been submitted to Senator Cumming and it will be attached to a broader tax bill that looks like it is moving forward. Laura suggested staff keep an eye on the bill and confirm where it is headed.

Rob Fish commented that staff have started to investigate a more robust Grant Management System since this program will assist as more funds become available over the next several years. Alissa Matthews added that the GIS Atlas is being built, and staff are working closely with Stone Environmental to develop templates and dashboards that will be used with and by the CUDs and that the Board can expect a presentation from Stone Environmental in a future March meeting.

Rob shared that the Fiber Optic Engineer contract is nearly executed so work will start with that consultant soon and responses are starting to come in for the two RFPs for outside legal services. Rob added that the VCBB continues to do outreach for the Project Developer position and is accepting additional applications, but that the VCBB is also looking holistically at staff to consider all options and that there may be a need to identify certain skills that could be sourced through additional outside consultants.

Rob explained that the VCBB continues to provide technical assistance to various CUDs, and will be engaging more closely with Southern Vermont after learning they did not receive the NTIA grant to build out their whole county. Laura Sibilgia brought up that there had been previous discussions about assistance that may be available from the VCBB, especially for

smaller CUDs. Rob confirmed that is the intention for both Southern Vermont and Otter Creek as they consider ways to increase capacity. Christine added that staff are taking a close look at the financials of those two and other CUDs, and that the VCBB plans to continue to be available to assist where needed.

IX. VCUDA Update

Will Anderson provided an update for VCUDA. He discussed the Southern Vermont CUD not receiving its NTIA grant and that no projects in Vermont were supported by that pool of funding. He will be providing assistance to Southern Vermont to figure out a solution. He added that Otter Creek is making steps to move forward to hire additional staff and contract with a design and construction partner. He has encouraged both of those CUDs to leverage the pre-construction grant funding.

Will commented that support for S.166 is waning and agreed with Christine that it does not seem to be going anywhere. He appreciated the support from Christine in the budget discussion.

Will confirmed that shared services such as the municipal advisor and the bond counsel are needed and the model of providing those services will be evaluated at the next VCUDA meeting. He added that they are attempting to use the as needed model for accounting services.

He confirmed that VCUDA also considered shared marketing services and does not see an avenue for that to be provided statewide at this time, however a new VCUDA website has been created to share information about all of the CUDs as their networks are deployed. Rob suggested that Will follow up with Sean Kio at Northwest Fiberworx to see if he has anything to add to the marketing discussion from his expertise.

Will shared that CUDs are building partnerships, continue make-ready work, and some construction is underway. Will explained that VCUDA is working to make another bulk purchase of hardware and have a lead on a consortium pricing scheme that will hopefully reduce prices and possibly lead times as well. Will has not confirmed whether the suggested Letter of Intent will be sufficient for that supplier but assumes that it will not be enough based on past conversations. Will asked the Board to seriously consider a more formal letter, especially given the demand for these supplies and the threat that the long lead times pose for CUD success. He added that finding a way for the CUDs to utilize their grant funding through an earlier purchase phase for materials could be critical to secure materials.

Holly Groschner questioned if any Letter of Intent would be sufficient. Will responded that although the CUDs would appreciate the Letter of Intent because it would be beneficial brokering certain supplies he has not been able to confirm that. Holly commented that the other solution she heard was to create a faster grant approval process and wondered what that would take to make happen. Holly also questioned why they can't use the same mechanism as they did to purchase fiber. Will confirmed that it is VCUDAs intent to use the same process to purchase hardware but added that it would be beneficial to find any way for the CUDs to access the VCBB funds more quickly.

Patty Richards clarified that the VCBB is trying to balance finding a way to support the CUDs and their need for funds with accountability and demonstration of a viable project. Will would like to explore ways that the CUDs could provide that assurance. He suggested that perhaps a solution could be figured out considering the necessity of the purchases and knowing that a certain amount of materials are needed across the state to successfully reach the VCBB's goals.

Rob Fish shared the options he sees moving forward, including: a form of a pre-grant agreement that could be further explored with Guidehouse; determining what would be needed to provide funds after someone goes through the pre-application process and agrees to certain things; the consideration that hardware are commodities and he wondered if the hardware itself could be the backing of a letter of credit since they could easily be resold on the open market; and exploring a waiver for commodity contracts through BGS to see if VCBB could purchase some of those commodities sooner than later. Christine added that she feels it is the staff's job to come back with a recommendation to present to the Board after circling back with VCUDA following this discussion.

Laura Sibia asked Will if she understood correctly that CUDs might have varied needs of supplies and for some examples. Will responded that no, in fact all of the CUDs tend to need the same supplies from the same providers and confirmed that a purchasing agreement would allow for some flexibility to pick and choose based on specific needs of each CUDs design plans. Laura then asked about obstacles for purchasing additional fiber. Will identified the uncertainty of specific needs of different strand counts, and the amount of money it takes and commitment it requires to secure it. Rob added that he is not sure of the capacity of the original partners but certainly could be possible to work with additional partners.

X. Public Input

Two members of the public provided input.

- Ray Pelletier from CV Fiber reiterated three things he heard in regards to making purchases – a letter of commitment to take to a vendor to do a bulk buy; letter of intent to take to a bank to get a 2% loan with a grant anticipation note; or a separate grant application for materials. His designers know that 200 miles of fiber will cost \$2 million in materials, so if the VCBB could figure out a way to set up materials grants for \$3-4 million that would expedite the process.
- Steve Huffaker from Maple Broadband shared that they have done similar investigation into sourcing materials with similar results and noted most distributors are claiming force majeure and prices are subject to change. They are less concerned with strand counts, but his biggest concern is working through force majeure to get materials needed.

Holly expressed her appreciation of the practical reality of what is going on in the marketplace and feels that the force majeure piece is something VCBB staff should propose a solution to. Christine agreed that Board Policies are still needing to be established and the VCBB could start with a purchasing policy.

XI. Parking Lot Review

Christine Hallquist reviewed the remaining topics in the parking lot, which include benchmark and the VCBB dashboard, pre-application commitment letters, opportunities for statewide marketing collaboration, and Board policy on material default.

Holly Groschner added that VCUDA asked and answered the question regarding statewide marketing and that it is not preferred route at this time.

XII. 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). Laura Sibilia 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 was adjourned at 3:14pm.