

**Vermont Community Broadband Board Special Meeting
Monday, March 25, 2024, 12:00pm to 4:00pm**

Meeting Minutes

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

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

- Patty Richards (Remote)
- Laura Sibiliala (Remote – joined at about 12:43 and left before the end of the meeting)
- Brian Otley (Remote)
- Holly Groschner (Remote)
- Dan Nelson (Remote)
- Christine Hallquist - Staff (Remote)
- Robert Fish – Staff (Remote)
- Toni Clithero – Staff (Remote)
- Heryn Herzog – Staff (Remote)

Ms. Richards made a motion to approve the agenda. Ms. Groschner seconded. Ms. Hallquist said she would like to add a discussion on next week's Board meeting to the agenda. Ms. Richards said she'd like to add a ten-minute Board check-in in executive session at the end of the meeting. The motion was approved unanimously (Ms. Sibiliala was not present).

II. Public Comment

Rob Vietzke from VCUDA suggested the Board members read the PSD Ten Year Telecom Plan, which includes an affordability plan and sunset plan among other things. They would like to see a full accounting of where ARPA funds have been allocated and where they are likely to go unspent. Mr. Vietzke also thanked VCBB staff for releasing curing data from the NTIA about issues that are critical to the CUDs and their ability to apply for BEAD.

Ms. Groschner asked Mr. Vietzke for more details. He said he was talking about an NTIA instruction that ARPA funds could not be used for match for BEAD and an instruction to score match even though the IIJA statute is very clear that ARPA funds are available for match.

Ms. Groschner recommended that we put ARPA allocations and match obligations under the ARPA grant as an agenda item on some meeting soon because it is critical.

F. X. Flinn said the Board policies are still over specified and have a lot of overlap with things that are already required, and they may give rise to unnecessary conflicts or complexities. He is also concerned about the call for new reporting in the policies.

III. Board Accountability Policy - [Consumer Protection Policy](#)

Ms. Hallquist noted that staff and the CUDs have been working hard on these policies ever since the report from the auditor's office last year. They were posted for public comment on

the VCBB website in January, followed by additional subgroup sessions, and they were posted for public comment on March 18. Since then, additional comments were received from VCUDA which were incorporated. Updated drafts were posted on March 22.

Toni Clithero started the discussion about the Consumer Protection Policy. One comment VCUDA proposed was included at the end of the policy in redline to address the concern about overlapping policies and grant terms. It reads: "Limitations – this policy applies only to the extent the grant contract lacks written terms addressing failure to comply with grant conditions. This policy will be subordinate to all attachments incorporating conditions by reference." Staff opposes including this in the policy.

Ms. Richards said she doesn't understand exactly what the language means. Ms. Clithero said she thinks the intent is that the policy only applies if there is a particular grant term or condition that addresses one of these issues, that grant term would take precedence. Ms. Clithero said she thinks the language was drafted with reference to the Grantee Agreement Policy.

Ms. Richards said she is not in support of the language being added to the policy because she doesn't understand what it means. Ms. Groschner said she supports Ms. Richards' view and said that even if it were understandable, they are going to make these policies override their existing agreements. And the statement is so broad it is unintelligible. They might need a provision that their policies are subject to federal regulation and requirements for grant funding, and where there's a conflict between the policy and a grant provision, the grantee may bring the conflict to the Board for resolution, but this language as written undermines the work that's already been done on the policies.

Ms. Groschner asked to go from the beginning of the policy to consider it all. Ms. Richards agreed. She introduced the Consumer Protection Policy by saying that its intent was to set some basic standards of consumer protection and quality assurance. She then walked through what is included in the policy. It's up to the grantee to administer the policy and tell the Board how they are doing it. Basically, their plan should address industry standards. It's flexible in how they comply, but they must pay attention to specific items, with annual reporting.

Ms. Groschner pointed out that some of the standards overlap with federal standards, and asked if that was reviewed, were FCC requirements filtered over the policy? We should put language in that says that anything that is related to federal standards is meant to enhance and expand the standards.

Ms. Groschner also pointed out that the policy says that grantees "may" require ISPs to obtain certification with the state. Ms. Richards clarified that if they choose not to, they must submit a certification document to the VCBB Board for approval.

Ms. Richards said she is not sure what the language referencing the FCC would include, so she would like to move on without including it. Ms. Groschner asked if she could work with Ms. Clithero to offer Ms. Richards an amendment in the future. She also asked if the FCC standards were reviewed in making the policies. Ms. Clithero answered that no they were not. Ms. Groschner suggested that Ms. Clithero prepare a memo explaining that they intend

these standards apply to grant holders over and above whatever standards are applied by the FCC. Ms. Richards suggested that they move forward with the policy as written and then if they find that they should make an amendment to the policy, they can do that later. Ms. Groschner wants it to be put in the parking lot for Ms. Clithero to review later.

Ms. Clithero said there were two other proposals made about the Consumer Protection Policy. Mr. Vietzke spoke for VCUDA on them. He said that on quality assurance, they think staff should prepare a report for the Board for each grant so they are all in a consistent format. Ms. Richards responded that her experience with utilities and reporting is that different companies want to have different formats or structure for the reporting, and that's fine. So, she does not want to have staff come up with one way to do it. Ms. Groschner commented that VCUDA could take on developing a form for how CUDs report. Ms. Groschner also took issue with the formatting of the policy.

Ms. Clithero said there was one other issue raised by VCUDA that the final authority for developing consumer protection standards is with the governing board of the CUDs if they're the grantee.

There was additional discussion about how to handle a conflict if one arises between the Board policies and preexisting grant agreements. Ms. Richards suggested that Ms. Clithero draft a process policy for that and add it to the parking lot.

Ms. Richards made a motion to approve the policy as written in the Board Packet with one change to fix a typo. Ms. Groschner seconded and amended the motion to include a formatting issue, that the provisions are enumerated. Ms. Richards accepted that change. Ms. Sibilia joined at about 12:43 and commented that she wants to be sure they are not holding the CUDs to a higher standard than the private telecom companies. The policy was approved unanimously.

IV. Board Accountability Policy – [Grantee Agreement Policy](#)

Mr. Otley explained he was the Board Member in charge of this policy, and the intent was to have a policy that brought structure to a situation where a grantee had either failed to comply with a grant condition or was showing signs of not being able to comply with a grant condition, an early warning system. Under those conditions, the VCBB is empowered to seek more information, make a remediation plan, and then evaluate that plan in collaboration with the grantee and other relevant stakeholders. It addresses what happens if they successfully mitigate the issue and what happens if they are unable to do that. There's an escalation policy up to the recoupment and transfer that is the next step. Ms. Clithero explained there were two issues raised during the comment period on this policy. One was the limitation issue discussed in relation to the Consumer Protection Policy. The other had to do with when the grantee must report out, whether it was when they connected a subscriber or at the end of construction.

Ms. Richards reiterated that she does not want the limitations language in any of the policies.

Mr. Vietzke commented that VCUDA thinks that completion of the grant is completion of construction and the availability of broadband at someone's home, not whether they have subscribed or not.

Ms. Groschner commented that the policy seems very complete as a self-reporting mechanism for CUDs, but not good for the VCBB to have the data to predict a problem. Who will make the determination that there's a problem? Mr. Otley said that the policy was intended to catch a problem through CUD reporting or if VCBB staff catches a problem through the normal course of business. Ms. Groschner commented that this should apply when there's an absence of compliance with VCBB policy or engineering standards. Mr. Otley said he is fine with that. She also suggested changing the provision that states, "failure to notify VCBB of the termination of an operating agreement with a critical operating partner," to remove the word "critical." She proposed several other changes to the wording of the policy.

Ms. Richards proposed not taking action on this policy and getting a redline version so they can review all the proposed changes and take it up at the next meeting.

V. Board Accountability Policy – [Construction Standards Policy](#)

Mr. Nelson said the challenge is to establish a single standard given the variation among densities and environments in CUDs across the state. The intent is to promote having a reliable, resilient network that could and will interoperate with others. We don't want any proprietary infrastructure operating in their territory. We want to ensure an alternative operator could come in and take over if there were a failure and that the network operates to a minimum of 100/100. The policy says that CUDs need to meet the standards or explain how they meet the intent. Reporting is set at monthly.

Mr. Vietzke said the CUDs disagree with the monthly reporting requirement as too specific. Mr. Nelson said there should be a separate policy on reporting. Ms. Richards asked Ms. Clithero to draft one. Ms. Richards brought up a couple of typos she found in the policy to be corrected and requested it be put in a numerical format. Ms. Richards made a motion to approve the Construction Standards Policy with the typos fixed and it put into a numerical format. Ms. Groschner seconded, and the policy was approved unanimously (Ms. Sibilia was not present).

Ms. Groschner would like to put in the parking lot cross-referencing between the reporting requirement under the constructions standards and a policy on reporting.

VI. Legislative Update

Gwynn Zakov gave an update on S199, VCBB staff submitted a letter of support last week and it has now passed the Senate. It's in the House Environment and Energy Committee for consideration. H657 is in Appropriations. In S181 the funding has been taken out for broadband affordability. It passed out of the Senate last week and now is in the House Environment and Energy Committee.

Ms. Groschner commented that in light of the ending ACP and with state funds taken out of proposed legislation, she would like to review her Affordability Policy to be sure it is not dependent on those subsidies. She also asked for an update from the Digital Equity Officer on what other states are planning to do about affordability now that the ACP is ending.

VII. Agenda for Next Meeting – Added

Ms. Hallquist reviewed the plan for the agenda for the next Board meeting.

VIII. Agenda Item # 13 – Added

The Board went into executive session at about 1:42 to discuss Board evaluation and personnel matters. (1 V.S.A. s.313(a)(3) (3), authorizing a public body to hold an executive session to consider personnel matters).

Action Items

- Ms. Groschner suggested that Ms. Clithero prepare a memo explaining that they intend the Board Policies apply to grant holders over and above whatever standards are applied by the FCC. Ms. Groschner wants it to be put in the parking lot for Ms. Clithero to review later.
- There was discussion about how to handle a conflict if one arises between the Board policies and preexisting grant agreements. Ms. Richards suggested that Ms. Clithero draft a process policy for that and add it to the parking lot.
- Ms. Clithero prepare a redline version of the Grantee Agreement Policy for the Board to consider at the next meeting.
- Mr. Nelson said there should be a separate policy on reporting. Ms. Richards asked Ms. Clithero to draft one.
- Ms. Groschner would like to put in the parking lot cross-referencing between the reporting requirement under the constructions standards and a policy on reporting.
- Ms. Groschner asked for an update from the Digital Equity Officer on what other states are planning to do about affordability now that the ACP is ending.