

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

I. Call To Order – 12:03pm

II. Roll call completed by Patty Richards

Patty Richards, Chair (Remote)
Dan Nelson (Remote)
Brian Otley (Remote)
Holly Groschner (Remote)
Laura Sibilila (Remote, joined at 1:30pm)
Christine Hallquist - Staff (Remote)
Robert Fish – Staff (Remote)
Stan Macel – Staff (Remote)
Alissa Matthews – Staff (Remote)

III. Review of Agenda

Christine Hallquist commented that there will be an outside presentation and other important topics to get to and suggested compressing the budget discussion if needed to stay on schedule since she is not seeking approval at this time.

Holly Groschner suggested moving the Equity and Affordability topic to just before Staff Updates.

Dan Nelson made a motion to approve the amended agenda. Patty Richards seconded and the motion was unanimously approved.

IV. Approval of Meeting Minutes

The Board discussed the March 14th, 2022 draft Board Meeting minutes. Holly Groschner made a motion to approve the minutes. Dan Nelson seconded and the motion was unanimously approved.

V. Budget Discussion – VCBB powers (discussion)

Stan Macel introduced a memo describing the spending authority of the VCBB. The Board and Staff discussed the discretion afforded to the Staff under Act 71 and the Board requested that Staff rework the memo to include a more concise policy.

VI. Data Privacy Briefing – Andrés Arrieta, Director of Consumer Privacy Engineering, Electronic Frontier Foundation

Andres Arrieta presented details regarding the power imbalance caused by lack of competition that has been historically abused by mobile and broadband ISPs with customer data, invasive practices, lack of control. He described metadata and why it is important, dark patterns and misuse of opt-in opt-out consents, threats to privacy and different places where ISPs have done data collection including redirecting search queries, deep packet inspection, analysis of DNS queries, injecting ads and super cookies in HTTP requests, adding spying tools in apps and phones, and geolocation spying. His opinion is that opt-in is not enough due to all of the above.

Content, metadata, customer information should not be used, sold, nor shared for any purpose's other providing internet service.

Holly Groschner asked if there is any reason that ISPs should be monitoring anything except for the volume of use. Andres confirmed that monitoring volume would help to manage congestion, but other reasoning provided by ISPs have not proven to have a purpose beyond marketing related activities. He added that ISPs assure privacy, but there is no obligation to intercept all data all of the time versus when there is a lawful request to intercept information. Patty Richards asked if there are consumer protection policies that would be relevant. Andres responded with the example of the option to opt in and opt out and will provide other examples and language that may be helpful.

VII. Budget Update – Current & Proposed (continued discussion)

Christine Hallquist and Rob Fish clarified with the Board the understanding that Act 71 provides authority to the VCBB, staff and Board, to issue discretionary grants outside of the two established grant programs and staff will bring any such proposed grants to the Board for approval.

Due to the limitations of state reporting a more complete budget to actual forecast will be provided once available.

****For clarification purposes the current 7/1/21-6/30/22 fiscal year is recorded as FY2022 and the upcoming 7/1/22-6/30/23 fiscal year is recorded as FY2023***

***FY2022 Budget Forecast and Adjustments:**

Christine Hallquist presented a summary of the forecasted budget to actual financial results noting actual results are expected to be under budget by approximately \$197,508 overall. Of particular note was an expected \$599,916 in excess training and education funds due to the lack of a state-wide workforce development program. Christine proposed that approximately \$470,000 of the unused training and education funds be used to cover projects in the final quarter of the year as follows:

- Statewide high-level design and estimate for costs of non-CUD towns –\$150,000
- Statewide program to challenge FCC Maps – \$200,000
- Logistics and application support for applications to BEAD equity grants – \$120,000

Patty Richards made a motion for the reallocation of up to \$470,000 out of the 2021-2022 fiscal year funds (*SOV FY2022) for purposes as delineated in the memo to the Board for the statewide estimate and high-level design for costs of non-CUD towns, statewide program to challenge FCC maps and logistics and application support for applications to BEAD equity grants. Holly Groschner requested an amendment clarifying the fiscal year as noted above. Brian Otley seconded the amended motion. The board approved the motion.

***FY2023 Budget Forecast:**

Christine Hallquist and Rob Fish gave a presentation on some of the expected budgetary needs going into the next fiscal year. A summary of the discussion topics at a high level included the following:

- *Programmatic:* Infrastructure, Workforce & Economic Development, Digital Inclusion & Equity Assistance Planning, Plan to meet BEAD Challenge Requirements and Accountability & Reporting.
- *Workforce Incentives:* Discussion surrounding financial incentives for fiber technicians to attract workers into the state to complete the broadband infrastructure projects. This would be dealt with at the construction company level and not directly provided to technicians by the VCBB. One option is to provide this through the construction grant process.
- *Staffing Needs:* Transition of Alissa Matthews role to Special Projects Manager, continuing the search for a Broadband Project Developer, new position of a Rural Broadband Technical Assistance Specialist, new position of a Business Office and Grants Manager (final position title TBD). This will be a net increase of two individuals over what has already been approved. The new positions will need to be approved by the joint fiscal office or the legislative process. Stan Macel will also confirm the powers of the Board in relation to creating new positions.
- *Contracts:* Additional contract needs may include but are not limited to Fiber Optics Engineer for reviews and TA, GIS Platform, Tracking & Reporting APIS/Software, Grant Management System, Regulatory Assistance Consulting for CUDS, Legal Counsel negotiation support for CUDs, Bond Counsel, Creative Finance, Chittenden County support & Feasibility Study, On-Site Fiber Optics Inspector, Statewide Cost & Identifying Gaps, Grant Writing and Reporting & Communications.
- *Operating Budget-* The overall budget is projected to be approximately \$3,147,941. The FY2023 capital budget supports construction of 4,331 miles of fiber construction. This is based on the carryover from the FY2022 carryover of \$150 million with \$30 million dedicated to pre-construction. Additional funding from the BEADA program is also expected to increase funding by approximately \$100 million allowing construction of an additional 2,000 miles of fiber construction.

Rob Fish presented a revised proposal:

“Based on this analysis, staff seeks Board approval to enter into grants, ”necessary or convenient” to its mandate and subject to budget and programmatic guidelines (i.e., spending will be limited to items in the VCBB’s annual budget), State and Federal Requirements, and Board approval.”

Laura Sibilia expressed concerns, particularly related to the staff requesting the ability to “provide grants or engage in contracts with any entity to solve one-off problems” in non-Cud towns because it is not under the jurisdiction of the VCBB. After discussion Rob clarified that in a case like this, there would be a requirement of a universal service plan accompanying the request.

Patty Richards confirmed that no action had been taken on the memo as of this meeting.

VIII. Purchase of Materials Recommendation (Discussion and motion)

Rob Fish presented the staff’s proposal to enable the pre-purchase of “Specified Lead-Time Materials” consistent with the process and policies as detailed in the Staff’s memo.

Holly Groschner asked if the funding should all be deducted from the Construction Grant funds and Rob clarified that the funds will first come out of the \$4 million that was previously reallocated by the board to cover these costs, and any additional amount needed for materials would come out of each CUDs Construction Grant allocation.

Holly Groschner made a motion to amend existing PreConstruction Grants to include up to \$6M for the purchase of “specified lead-time materials” per CUD per Fiscal Year consistent with the process and policies as detailed in the Staff’s Pre-Purchasing of Materials Recommendation. Patty Richards seconded and the motion was unanimously approved.

IX. Chittenden County/Non-CUD towns (Discussion)

Rob Fish presented background on VCBB’s goal to provide CUDs with 60% grant funding towards the cost of their overall Universal Service Plan and that assumption should also carry over to individual non-CUD towns, assuming a town is working with a private provider and they have a Universal Service Plan. Laura Sibilia stated that she would encourage those towns to form a CUD, request funds to complete an engineering study to solve their issues.

Rob then continued to outline some of the challenges that have been raised including:

- Who coordinates and develops the Universal Service Plan when wire centers are split by multiple phone companies? Do they need to create a CUD? Do towns need the power to be able to create that plan as opposed to leaving it to an individual provider?
- How to address areas with scattered addresses that require extensive overbuild of cable to achieve universal service? Additional planning is needed.
- Should the VCBB establish a policy in cases of underground utilities and existing infrastructure where there are gaps or new developments that are being built by a single project developer or multi dwelling units or mobile homes parks where there's an exclusive right to use the conduit?

Laura Sibilia shared that in terms of what might be anticipated from House Energy and Technology Committee would be something similar to the emergency line extension program giving CUDs authority to work in areas that are adjacent to them. Holly added that she thinks the House Energy and Technology Committee should consider policy that addresses the disincentive for providers to address these problem areas that will leave constituents unserved. Rob added that he thinks it would be helpful for there to be a way for CUDs to access additional funding to serve addresses in neighboring towns when it doesn’t make economic sense for the whole town to join the CUD. Laure reiterated that other extremely rural and under resourced communities have found ways to plan and get funding and she expects other towns to use the tools available to do the same. Patty added that she would prefer that VCBB Staff not go down the road of opening up legislative changes.

Rob shared the proposed H712- <https://legislature.vermont.gov/bill/status/2022/H.712> and clarified that it would not require additional funds over the established funding set aside and available for non-CUD towns and may help lead to a solution for the non-CUD towns. The Board and Staff continued to discuss serving these additional towns and ultimately agreed that Act 71 requires the VCBB to focus on CUDs and areas with universal service plans.

X. Equity & Affordability Proposal (discussion and motion)

Christine Hallquist presented the background on research she has done on the existing efforts in Vermont addressing equity and affordability and made the recommendation that the Board consider requesting the Governor assign the VCBB as the Equity Office which is a requirement of the upcoming BEAD program and would allow the VCBB to begin work applying for that additional funding.

Brian Otley asked what that would entail and Christine explained that she doesn't see this as something that would add to the VCBB Staff's direct workload but would be more of a management role. Brian added that the VCBB is charged with facilitating market activity to construct these networks and is not sure he agrees this is the most qualified place for equity and diversity work to sit.

Holly Groschner, provided full disclosure that she is the Board Chair of an organization called Equal Access to Broadband, and explained that this relates to the deployment of networks because it's an affordability issue and when you consider low-income households make up 10-16% of the population in these underserved areas and you don't plan for a way to serve them then that impacts the take-rate for the business plans and impacts the sustainability of the networks.

Dan Nelson commented that this will be a lot of work and would not want it to take away from the more broad focus of building out the infrastructure, and would hope other organizations would be able to work on the ground level. Rob confirmed that the VCBB would expect to contract this out.

Laura Sibilia asked if there is likely to be any conflict and Christine responded that she doesn't anticipate any other Agencies taking this on. Christine recommended the Board go back and take a closer look at the report she prepared and we can come back to the topic at a later time.

XI. Staff Updates

- Legislative – VCBB staff are working with Legislative Counsel to address the minor changes to receivership language of Act 71 in H.738 which is heading over to Senate Finance next.
- Grants – Staff are expecting applications this week from a CUD and an ISP and Staff are working on updating guidance to assist CUDs with their applications.
- Contracts – A consultant to provide Regulatory Legal Counsel to CUDs has been chosen and Staff are working on negotiating the contract.

XII. VCUDA Update

Will Anderson provided an update for VCUDA. He shared that CUDs are busy pulling together applications. Will commented that VCUDA recommends that the VCBB consider the taking on the role of the Statewide Equity Office and services like those provided by Equal Access to Broadband to help address affordability across the state.

Will stated that VCUDA is appreciative that the Board has approved an option to move forward with pre-purchases as that will be critical now that everything is moving forward with sourcing of materials in preparation for the construction season. VCUDA is working with vendors to negotiate costs and availability to develop a consortium purchasing plan to make purchases effectively.

Will discussed the issue of non-CUD towns and confirmed if it is not going to impact the way the pie of funding is divided up then it really isn't a cause of concern unless it would require opening up Act 71.

Will expressed support of the VCBB Staff's proposal to the Board to allow discretionary grants would be helpful to VCUDA and could help the organization and VCBB provide additional services to the CUDs.

XIII. Public Input

Two members of the public provided input:

- Irv Thomae commented on the affordability issue, stating that apart from questions around the jurisdiction of the VCBB to establish a Digital Equity Office he does feel that the VCBB should make a recommendation on the best suited entity to take on the issue.
- Christa Shute echoed what Irv shared and feels that it would be appropriate for the VCBB to take on the Equity Office, that it is critical to the work the CUDs are doing and to evaluate potential solutions to these issues and play a clearinghouse role would be the best way for the VCBB to handle this work.

XIV. Parking Lot Review & Agenda for Next Meeting

Parking Lot Review

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

- Provide Board with impact of Commitment Letter – this has been addressed with the material pre-purchasing proposal.
- 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 a future Board meeting.

To be added:

- Develop policy around signature authority
- Can the Board hire staff without Legislative or State approval

Agenda for Future Meetings

Christine Hallquist reviewed the additions for the future agendas:

- Possible Grant Reviews
- Shared services proposal with VCBB and VCUDA
- Designated entity for affordability and State's Digital Equity Office
- GIS platform presentation from Stone Environmental

XV. Executive Session

Patty Richards made a motion to adjourn. Holly Groschner seconded, the motion was unanimously approved and the meeting was adjourned at 3:50pm.