

Vermont Community Broadband Board Meeting

Monday, April 10th, 2023, 12:00pm – 4:00pm

Minutes

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

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

- Patty Richards, Chair (Remote)
- Laura Sibilila (Remote)
- Brian Otley (Remote)
- Holly Groschner (joined at 12:13)
- Dan Nelson (joined at 12:25)
- Christine Hallquist - Staff (Remote)
- Robert Fish – Staff (Remote)
- Alissa Matthews – Staff (Remote)
- Lucy Rogers – Staff (Remote)
- Kristin Brynga – Staff (Remote)
- Herryn Herzog – Staff (Absent)

Patty Richards made a motion to approve the agenda as posted. The motion was seconded by Brian Otley. Patty raised the fact that the draft minutes were not included in the packet and so the vote to approve them should be delayed. The adjusted agenda was unanimously approved with the removal of the approval of the March 13th minutes.

II. Approval of the March 13th Minutes (postponed)

III. Staff Updates

- Christine noted that staff is working on an extensive information request from the Wall Street Journal.
- **General VCBB Updates- Rob Fish**
 - i. There are proposed technical changes in regard to Act 71 and language change in the budget bill to allow the Secretary of State to issue Certificates of Good Standing to the CUDs also language being added to the Budget Bill to provide for the escrow account that is necessary for the Middle Mile application.
 - ii. There have been no additional clarifying questions asked in regard to the Middle Mile Application. It should be in programmatic review at this stage of the process.
- **CUD Progress Updates – Lucy Rogers**
 - i. Lamoille, Northwest, and Otter Creek are still in process of contracts negotiations and are making progress
 - ii. Chittenden County CUD has put out an RFP for support with contract solicitation and negotiation.
- **Dashboard Review – Alissa Matthews**
 - i. Alissa shared the new pre-construction and construction progress tracking dashboard.

IV. VCUDA Updates- Rob Vietzke

- VCUDA was pleased to announce that Chittenden County CUD is now a member, bringing total membership up to all ten CUDs.
- Construction season is about to ramp up so they expect to see good progress over the next few months.
- VCUDA conducted a survey across all the CUDs about how they are implementing their financial systems. This will allow them to better structure the shared service functions as part of their NBRC-SPISES grant.
- VCUDA has Posted for a Junior Program Manager to help facilitate their working groups. The job posting can be found at <https://www.vcuda.org/careers>
- The make-ready workgroup is continuing conversations regarding apportionment of cost. That work is ongoing and includes doing more background due diligence.
- Administrative
 - i. VCUDA found the auditor's report constructive and insightful and is starting to think about how to make improvements in light of this feedback.
 - ii. Discussions have continued regarding having CUD employees join the Vermont municipal employee retirement program. It has been determined that employees can join without requiring any additional legislation.
 - iii. Met with the Secretary of State's office and they were able to determine that Certificates of Good Standing can be issued by their office to the CUDs. This is expected to help with Federal grant applications.
- The discussion regarding how accountability can be increased across CUDs is evolving and is complicated, but everyone recognizes that the State's strategy of a community-based solution and bottom-up construct allows room for CUDs to implement local solutions. The fiduciary responsibility of the CUDs is seen as being consistent with the municipal boards. Discussions will be ongoing.
- Laura Sibilia inquired about any progress that has been made with discussions with the utilities pertaining to grid resiliency. Rob indicated that both the CUDs and electric utilities have major infrastructure projects underway in the next few years and discussions are in progress regarding coordinating those projects, particularly regarding undergrounding a number of the rural routes to better protect them. Discussions are ongoing.

V. CVFiber Construction Grant Amendment

Christine indicated that CVFiber has requested an increase in their construction grant in the amount of \$1,910,845. CVFiber is expected to have a funding gap and this request will assist them in moving into the next phase of their project by ordering long lead time materials. Additionally there is funding for administrative expenses to keep their funding intact during the expected gap in funding. Jennille Smith, CVFiber, concurred with Christine's summary.

The Board asked the following questions:

- Patty Richards asked for additional information about Municipal Advisory and Underwriting Services line item.
 - i. Ray Pelletier, CVFiber, indicated that VCUDA is in the process of entering into the shared services contract with VCUDA once it is approved by VCUDA. Within that proposed contract Municipal Advisory services are included and there is also a need for bond counsel. They may

also need to borrow some funds to help bridge the gap with funding in addition to the requested funding.

- Holly Groschner asked to clarify that the additional request is not to fund new activities but to instead provide funding to continue the same activities that currently have a funding gap.
 - i. Ray Pelletier responded that no new activities are included and they are preparing for some of the phase II work that will begin in 2024.
- Holly Groschner inquired about the need for bond counsel at this early stage.
 - i. Ray Pelletier indicated that they have been given that advice by both underwriters and their municipal advisors and this is part of exercising their fiduciary duties.
- Holly Groschner asked if filling the gap through construction funds will ultimately decrease the amount requested for BEAD funds or if that amount is just deferred.
 - i. Ray Pelletier indicated that it is just deferred. There are still many unknowns with BEAD funding.
- Holly Groschner asked staff if the original construction grant has been reviewed for compliance prior to making an expansion of that grant. She further asked if a review of the business plan is performed to ensure that the plan is still sustainable with the new request.
 - i. Kristin Brynga provided further explanation regarding the risk assessment process and monthly reporting review that is performed to ensure compliance both at a point in time and on an ongoing basis.
 - ii. Christine indicated that she reviews the business plan to ensure that it is still sustainable prior to bringing it to the board for approval.
- Dan Nelson commented on the percentage of the increase and whether we expect this to be standard for other CUDs as well. He would like the board to take this into consideration as they move forward.
- Patty Richards asked if there was a way to manage and minimize the amount of fees that the CUDs will need to pay for bond counsel and municipal advisory to help get them through the funding gap more efficiently.
 - i. Christine and Rob Fish indicated that there are many unknowns with BEAD and that the CUDs are all at different points with this process. CUDs have been encouraged to apply for funds from the NBRC and USDA that may help with this. There is also funding in the NBRC-SPISES grant with VCUDA that can be used to help with these shared services.
 - ii. Rob Vietzke indicated that VCUDA is working on this as part of their discussions on shared services as well and will likely have more information to share about this in a future meeting.

Patty Richards made a motion to approve CVFiber's Construction Amendment for an additional \$1,910,845 in funding. Laura Sibilia seconded. The motion was unanimously approved.

VI. Status Update on BEAD & Digital Equity RFP

- Lucy Rogers updated the Board on the RFP process for the contractor to help with BEAD/DE. The RFP closed on March 28th and the quality of the responses received was very good. The review team has been Lucy, Alissa and Christine, Hunter Thompson the PSD Director of Telecom and one member from the Digital Equity Core Team, Julie Abrahamson from State of Vermont Department of Disability, Aging and Independent Living. A decision matrix was created and utilized in the independent scoring process. A group of top respondents were identified using this process and interviews are underway with those respondents.
- Lucy noted that the Digital Equity Officer position has been posted and is open until April 23rd. The job posting can be found at [Digital Equity Officer \(vermont.gov\)](https://www.vermont.gov/digital-equity-officer).

- Lucy updated the Board on the FCC challenge process. Of the 21,853 originally submitted, so far 2,678 have been upheld and 15 have been overturned. The process continues.
- Lucy updated the Board on the challenges faced with the timeline and lack of clarity from the NTIA. A long list of questions was submitted in February. A partial response was received on April 7th but many are still outstanding. The main areas that clarification is still needed on are the requirements for match, understanding more about the state challenge process to the mapping requirements, understanding more about the letter of credit and understanding what criteria can be used as gating and scoring criteria. Christine summarized that the VCBB will continue to provide weekly and monthly updates on this critically important issue and stressed that the VCBB staff are working very hard to get the BEAD program structured for Vermont in the way that reflects Act 71. She shared that an additional challenge is that the NTIA is still developing program specifics and the VCBB team is trying to ensure Vermont's goals line up.

VII. Policy Discussion Regarding CUD Ownership and Operating Models

- Lucy Rogers presented a discussion about accountability per Act 71. The intent of the discussion is to influence accountability prospectively, not to make changes to existing fully executed grants and contracts. Staff did not bring forth a recommendation but rather requested the Board's thoughts on various scenarios. It was determined that further discussions would be held in future meetings.
- Laura Sibilia commented that Act 71 references accountability in regard to when public funds are expended, that there is some guarantee of public service going forward and accountability for being able to hold entities accountable for both the service and the public funds. She indicated that we should never be put in a position where we have Vermonters reliant on a deteriorating asset and no ability to do anything about it and their ability to call for help, being extremely jeopardized.
- Holly requested an opportunity to establish a board policy to define accountability, specifically noting that a conversation at the Board level should occur which takes the staff's recommendations under consideration but ultimately the policy that sets the standards for accountability should be something that the Directors have a consensus on. Patty asked Holly, with Laura's assistance, to outline thoughts to lead this discussion with the Board in a future meeting. Holly will work with Laura on this and will discuss this with Lucy pre-meeting as well.

VIII. Discussion of the Report from the Auditor's Office

- Christine provided a general summary indicating that staff appreciated the feedback from the State Auditor's and that staff is generally in agreement with most of the items in the report. The risks identified are known and steps are already being taken to comply with some of the noted recommendations.
- The Board and staff members discussed the talking-points that were provided as part of the testimony at the Senate Finance Committee hearing. There was further discussion as to what the appropriate procedures are for responses to reports of this kind and what the Board involvement should be with providing responses. Discussions on these items will be ongoing.
- Holly Groschner asked what criteria in the auditor's report do the directors of the VCBB want to have staff develop an action plan for? An action plan should be created to address the identified criteria and recommendations.
- Patty confirmed that an action plan would be useful to address issues that were highlighted over the next year or two. Additional discussions and follow-up will occur in a future meeting.

IX. Public Comment

- Ann Manwaring commented on the legislative intent to have the work to implement the goals be done at the local level. The auditor's report was not from that perspective but rather only from the

perspective of the State. She would like to see this perspective taken into consideration when the action plan is drafted.

- F.X. Flinn commented that he feels the auditor missed the fact that the broadband businesses are competitive and unregulated and that governments entities like the CUD's are typically never in a situation where they own that kind of a business. EC Fiber has pioneered the effort in Vermont and has eight years of experience subject to all of Vermont's transparency laws and also own's a business that competes in the marketplace and has been dealing with that balance. He added that he thinks that that the auditor really missed a very key thing in terms of his analysis of what's going on.

X. Parking Lot – Christine Hallquist

Christine Hallquist reviewed the parking lot items noting establishing policy to address enforceability of the partners of the CUDs. This has now been added to the policy discussion for a future meeting.

An action item will be added for a Board position to be created in response to the Auditor's report.

Holly asked for confirmation that general counsel had been hired. Christine confirmed that to be the case and Toni Clithero, who was on the call, introduced herself as the new general counsel.

XI. Confirm Next Regular Meeting 5/8 & Motion to Adjourn

Patty Richards made the motion to adjourn, and Holly Groschner seconded. The motion was unanimously approved and meeting adjourned at 2:02pm.