

Vermont Community Broadband Board Meeting
Monday, September 9, 2024, 12:00 pm to 4:00 pm
Meeting Minutes

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

Patty Richards called the meeting to order at 12:02 pm, and completed roll call:

- Patty Richards
- Dan Nelson
- Brian Otley
- Laura Sibilila (joined at 12:03pm)
- Holly Groschner (Absent)
- Christine Hallquist – Staff
- Rob Fish – Staff
- Toni Clithero – Staff
- Kristina Sweet – Staff
- Alexei Monsarrat – Staff
- Alissa Mathews – Staff
- Heryn Herzog – Staff
- Lucie Fortier – Staff
- Ginny Raboin – Staff

The Chair moved to approve the agenda, seconded by Mr. Nelson and opened the motion for discussion. Ms. Hallquist requested the addition of having a one-hour special meeting seeking Board approval of the NEK CUD Grant that will be introduced during the meeting. With no further discussion, the additional agenda item was approved unanimously.

- 2. Minutes Approval** – The Chair made a motion to approve the minutes of August 12, 2024, seconded by Mr. Otley and opened for discussion. Ms. Clithero proposed adding “a portion of” in front of the Construction grant reference to acknowledge the fact it’s not the entirety of the construction grant. With no objections to the change, and no further discussion on a vote of 4-0 the minutes were approved with the correction.
- 3. Public Comment** – Ms. Hallquist opened public comment. F.X. Flinn of ECFiber noted page 26 of the Board Packet the slide indicated one suggestion for use of the funds is to reduce ECFiber debt load. Mr. Flinn noted the idea was to put those funds into ECFiber construction grant. The \$17M ECFiber will be receiving from the State of Vermont is only reducing the amount of money they will need to borrow, reiterating that ECFiber understands they are not able to ask for ARPA money to

pay off their bonds. Mr. Flinn continued to share disappointment with the Board for not instructing Staff to propose how to get EC Fiber more ARPA funding given that EC Fiber has worked to reduce the number of locations in the district that would qualify for BEAD Funding.

- 4. KPI Scorecard Update – Executive Session pursuant to 1 V.S.A. s. 313 (a)(6), which protects records exempt from the access to the public records law –** Ms. Hallquist introduced the item and noted Mr. Monsarrat will present slides to the Board in open session then they will need to move to executive session to discuss the details. Mr. Monsarrat noted in addition to standard grant monitoring, the Construction Standards policy has additional metrics that Staff is currently collecting. These metrics are business sensitive. Mr. Monsarrat noted this is a review of the performance in the second quarter of 2024 with the next quarterly review potentially in November. Ms. Richards made a motion to go into executive session pursuant to 1 V.S.A. s. 313 (a)(6), which protects records exempt from the access to the public records law seconded by Mr. Otley, with no discussion the motion carried 4-0 and the Board went into Executive Session at 12:15 p.m. The Board came out of Executive Session at 12:48 p.m. with no action taken.
- 5. Approval of Lamoille FiberNet/OCCUD/SoVT CUD Sustainability Plan –** Mr. Monsarrat noted this information will be provided to refresh the board and noted the SoVT CUD and Otter Creek CUD boards have voted to approve this sustainability plan and turned it over to Lisa Birmingham. Ms. Birmingham noted all three CUDs have voted to approve the Sustainability Plan as presented. Ms. Birmingham shared that the Memorandum of Understanding with Consolidated is fully executed and that she expects with the approval of the construction grant amendment they will draft amendments to their operating agreements as well as a new agreement to codify the eight-year commitment of annual payments. Ms. Birmingham noted after feedback from the VCBB board to consider a single payment versus annualized payments, that the CUDs met to consider the issue but determined annual payments written into the new contract best protected their future interests. Ms. Birmingham provided an overview stating the CUDs prioritized Universal Service Plans with ARPA funds for the first three years and have a sustainability working group that enables them to share resources and alignment to minimize overhead to serve their communities. When the ARPA funding runs out in 2026, they will transition to CCI funded overhead for years 2027 through 2034. Ms. Birmingham noted part of their 10-year commitment offers a biennial review of governance structure and annual reviews with CCI in terms of performance under the operating agreement and their own triumvirate. Mr. Richards advised she would allow questions during the public comment period and would open an executive session for any question pertaining to confidential material provided in the packet. Ms. Sibilila applauded the CUDs for

combining their efforts and asked why it wasn't in the CUDs best interest to have a single upfront payment. Ms. Birmingham noted that annual payments would be easier for budget management and Lamoille was not concerned with non-payment. Ms. Sibilia noted that this deal is allowing CCI to benefit again from significant public dollars with a 10-year partnership commitment and that an upfront payment allows the public investment to generate interest and potentially provide additional years of security beyond the 10 years. Ms. Sibilia asked what the protection is in the event of bankruptcy. Ms. Birmingham responded the Memorandum of Understanding is drafted under bullet two that if there is an issue they can agree to more or less, Ms. Birmingham continued to share that in Lamoille's, Otter Creek agreement is 20 years and protects in case of default and noncompliance. In the out years after construction is complete, that compliance is related to network performance and customer service. The sustainability plan is 10 years, their agreement is for 20 years. Mr. Tilton, the Chair of Lamoille FiberNet CUD noted one of the reasons for an annual payment was that it allowed an opportunity to better forecast their expenses in advance and to be more conservative with those expenses. It would also allow for an incremental increase as needed instead of asking for more money in three years. Ms. Richards noted having questions regarding the confidential materials and made a motion to go into Executive Session pursuant to *1 V.S.A. s. 313 (1) (A) after making a specific finding that premature general public knowledge would clearly place the public body or a person involved at a substantial disadvantage* seconded by Mr. Otley and opened discussion. With no discussion on a vote of 4-0 the Board went into executive session at 1:03 p.m. and returned into public session at 1:32pm with no action taken. Ms. Richards made a motion to approve the Sustainability Plan presented for Lamoille, Otter Creek and SoVT CUDs seconded by Mr. Nelson and opened the motion for discussion. Ms. Sibilia noted her disappointment with the CUDs not being able to negotiate a lump sum payment because CCI is benefiting from public investment. Ms. Sibilia reiterated that a lump sum payment would provide security and noted her appreciation for the work that went into securing the agreement and shared her support of the Sustainability Plan. With no other discussion on a vote of 4-0 the motion was approved unanimously.

6. Act 71 Grant Amendments Otter Creek, SoVT – Ms. Sweet presented the grant amendments noting that Otter Creek is requesting \$352,000 for operational costs from now through 2026 and that it will be relinquishing its remaining allocation of ARPA funds from the original \$1.6 allocation. The second application from SoVT requested \$220,000 for operational costs and relinquishing \$488,000 in ARPA funds that were previously allocated. Ms. Richards asked if there is a recommendation from Staff and if Staff have reviewed the request in detail Ms. Sweet confirmed Staff has reviewed the requests and supports and recommends the Board approve the amendments. Ms. Sibilia asked why staff was in support of the amendments. Ms. Hallquist noted these are funds that the CUDs need to carry their administrative staff

through 2026 to provide necessary the oversight. The first two years will require significant oversight that will decrease over time. Ms. Richards made a motion to approve the request from Otter Creek of \$352,000, seconded by Mr. Nelson and opened for discussion. With no additional discussion, on a vote of 4-0 the motion was approved unanimously. Ms. Richards made a motion to approve the request for \$220,000 for SoVT CUD seconded by Ms. Sibilis and opened for discussion. With no discussion on a vote of 4-0 the motion was approved unanimously.

7. NEK CUD Grant – Mr. Monsarrat noted NEK CUD is working on its plan for it's remaining \$19.7M dollar allocation. They are working through two elements: the first for an APRA build they are proposing and the second for BEAD Match. Staff is providing this information as a briefing with no action required today and is seeking a Special Board Meeting given the complexity of the issues. Staff is working to ensure that any funds allocated for BEAD match are awarded before the BEAD subrecipient selection process. Ms. Shute of NEK Broadband noted for the record the total amount of Capital Project Funds (CPF) that have not been contracted is \$25,339,161, the total request for this amendment is \$19,713,977. Of the requested amount, \$8,404,687 is related to their ARPA spend and \$11,309,290 would be for match contingent on a BEAD award, leaving \$5,626,184 remaining after the proposed amendment. Ms. Richards asked for any discussion that could be public, with none Ms. Richards made a motion to go into Executive Session pursuant to *1 V.S.A. s. 313 (1) (A) after making a specific finding that premature general public knowledge would clearly place the public body or a person involved at a substantial disadvantage* seconded by Mr. Otley and opened for discussion. With no discussion on a vote of 4-0 the Board went into executive session at 1:46 p.m. and came back into public session at 2:15 p.m. with no action taken. Ms. Richards asked Staff to send a Doodle Poll to set up the 1-hour special meeting.
8. Chittenden County CUD Grant – Ms. Hallquist noted when Staff presents this grant prior to issuing funds Staff will ensure those addresses are deduplicated. Mr. Monsarrat noted Staff is working with Chittenden County under the Act 71 obligations to bring this forward given the amount of territory that is served. Mike Vance, Chittenden County CUD noted Chittenden County CUD is apprised of eight towns which are 95% served. Mr. Vance indicated the proposal is in two phases. Phase 1 is a request for ARPA funds to build a portion in partnership with CCI of the remaining unserved addresses. Phase 2 is CCI committing to apply for BEAD with CCCUD support to build the remaining unserved or underserved addresses. The outcome will be CCCUD will own \$2.1M in installed fiber, CCI will own the rest of the network. Mr. Vance stated that CCI will be delivering their Fidium Fiber product as they have done with agreements with three other CUDs and CCCUD has a tentative agreement to negotiate a similar Sustainability Plan agreement that CCI has with the other three CUDs. Ms. Richards asked for Staff's recommendation and questions. Mr. Monsarrat noted that Staff supports this recommendation as one of the benefits

is that it commits CCI to build these addresses with commitment to put in a BEAD bid for the remainder. Ms. Hallquist added this is the most challenging area in terms of universal service because these are small pockets that are best served by an existing provider, without an existing provider it will be a challenge to serve them. Ms. Richards asked if CCI is the only service provider? Mr. Vance noted they were the only service provider that responded to the proposal and went on to note that some of these addresses are unserved or underserved addresses of wealthy homeowners who chose not to extend lines to their homes, these addresses are spread out. With continued discussion Ms. Richards noted concern this application does not achieve universal service. Ms. Hallquist noted like other applications we know other CUDs are counting on BEAD funding to complete their universal service plan. Ms. Fremin of CTC noted the CUD has not committed to universal service in the initial phase, they have committed to fund this Phase 1 with ARPA funding in conjunction with CCI, Phase 2 deployment to the remaining addresses is contingent on identifying funding. Further, CCI has committed a minimum match and will seek additional BEAD funds. Ms. Fremin noted that there is no direct commitment by CCI or CCCUD that they will provide universal service but that this is not very different from other CUDs who are seeking BEAD funds or in some cases have not identified funding sources. Ms. Hallquist noted if they are not funded, VCBB is still obligated under BEAD to find service for them. Mr. Monsarrat noted VCBB is authorized under Volume 2, should there not be a bid we can go out to existing providers to negotiate coverage. Ms. Richards noted the difference is the other CUDs have submitted grant requests that indicate the additional difficult addresses will be pursued with BEAD funding and if unsuccessful will work with VCBB or the State will step in at that point. Mr. Vance indicated he is willing to seek a contract amendment that states Chittenden County CUD is seeking universal service since that is what their goal is. Ms. Richards noted the Board issues grants that achieve universal service, the wording is important in terms of accountability. Ms. Sibilia noted Act 71 requires universal service and accountability and continued to note the reason accountability was an objective of Act 71 is that Vermont was unable to hold providers accountable. Ms. Richards asked Ms. Hallquist to support Mr. Vance with an updated request. Ms. Richards asked for the CCCUD Grant to be addressed in the special meeting the first week of October and confirmed CCCUD should come back with a Sustainability Plan and confirmation of universal service. Mr. Nelson thanked Mr. Vance for working to fill the holes throughout his region. Mr. Otley noted that CCCUD has a unique set of opportunities and challenges that make it different than any other CUD and recommended Staff work with Mr. Vance to refine their application and bring it forward in the hopes of moving in a positive direction. Ms. Hallquist noted she would meet with CCCUD and check in with Ms. Richards before the special meeting.

9. Priorities for remaining ARPA Funds/Connectivity Initiative – Mr. Fish advised the Board on the proposed allocation of the remaining ARPA funds and the Connectivity Initiative. To reach this proposal Staff solicited feedback from CUDs, reviewed compliance with Treasury guidelines, discussed with VCUDA and evaluated for impact. Mr. Fish noted that Mr. Flinn’s remark re ECFiber not soliciting funds to reduce their debt load was correct and that his presentation was in error on that point. He continued that, the top request from CUDs was the Long and Underground Drop Program. Staff views Long and Underground Drops as a way to improve business plans, potentially increase customers and address a barrier to access for low and some middle-income Vermonters. Mr. Fish read the proposal for up to \$2.5M in ARPA CPF Funding and \$1.2M in Connectivity Initiative Funding which proposes these funds be used for expenses associated with Long Drops, covers the cost of drops, supports the implementation of universal broadband service and prioritizes the funding for Low Income Vermonters, manufactured home communities and pre-signed up customers at eligible addresses who commit to a service contract of at least 6 months by December 30, 2024. Ms. Richards asked for discussion on the proposal and noted that item two states “covering the cost of aerial drops is best practice” Ms. Richards asked if that was best practice and what if it needed to be underground? Mr. Fish responded that many providers including some CUDs have adopted a policy where they will cover the cost for all aerial drops and that undergrounding is an exorbitant cost and was hesitant to incentivize what could be an unknown amount of funds. Ms. Richards noted best practice is what individual location necessitates based on geographic structure of the location and the utility will determine the most cost-effective way of getting there and recommending removing the word “aerial”. Ms. Sibilina asked the definition of low income. Mr. Fish advised the goal is to align it with the eligibility requirements present under the Affordable Connectivity Program. Ms. Sibilina noted that she would like to see a reference and clarify what low-income needs are as there are multiple definitions. Ms. Richards stated she is happy to authorize Staff to develop a program and encouraged Staff to identify and summarize, with the main point being the need to address and define low income. Ms. Richards made a motion to authorize Staff to develop a need based long and underground drop program and come back to the Board with an outline of the proposal seconded by Ms. Sibilina and asked for discussion. With no further discussion the motion was passed unanimously with a vote of 4-0.

10. Legislative agenda – Ms. Hallquist noted this was meant as a brainstorming opportunity noting a formal presentation will be offered at a later date. Ms. Hallquist outlined Staff recommendations. The first is the Broadband Consumer Bill of Rights. This would implement the quality assurance provisions of the Board’s Consumer Protection Policy and would ensure it applies to all ISPs, noting it addresses resiliency concerns to address emergency weather events, power outages including battery backups and identification of potential partnerships. Ms. Sibilina stated

concerns around talking in open session what the Board would like to do with legislation and asked Ms. Hallquist to explain the rationale. Ms. Hallquist confirmed this was not the Board's position but the recommendation from Staff and is not binding the Board. Ms. Richards recommended Ms. Hallquist give a high-level overview. Ms. Clithero added this information is meant as an overview of ideas to familiarize the Board and in future sessions Staff would like to map out strategies. Ms. Hallquist noted the intent is to protect customers during a declared state of emergency focusing on resiliency and recovery, utilizing used equipment from state agencies to be retooled and provided to low-income individuals who cannot afford devices, including and providing additional funding for the Long Drop program. Ms. Sibilian noted she would like Staff to frame the problems that they are trying to solve in the legislative session, then have the opportunity to work through those with the Board's attorney and its government affairs consultant in Executive Session. Ms. Hallquist noted in the October board meeting, Staff will identify problems they are trying to solve and provide suggestions on how to solve them and review with the Board in Executive Session. Ms. Richards followed up stating in October she would like to review what was left on the table in the last legislative session and what topics the Board wants to be active on in the upcoming legislative session.

- 11. Parking Lot** – Ms. Raboin updated the Board the items addressed on the parking lot, items currently in progress and items that have been completed. Ms. Raboin noted Ms. Clithero wrote a legal memorandum updating the Board on the BEAD Affordability Scoring Rubric and requested the attorney client privilege be waived so this memorandum can become public record. If approved, Staff will add this to the October Board packet. Ms. Clithero noted this memorandum corrects information that was provided to the Board before the initial proposal of Volume 2 was finalized, in the interim the reinvestment of income is no longer in the initial proposal and part of our scoring rubric. Ms. Richards made a motion to waive confidential treatment to Ms. Clithero's September 4th memo to the Board regarding updating the BEAD Affordability Scoring Rubric, seconded by Mr. Nelson and on a vote of 4-0 the motion was approved unanimously. Ms. Richards confirmed the memorandum would be included in the October Board Packet.
- 12. BEAD Timeline Update** – Ms. Mathews noted the BEAD timeline has had some additional changes from the version in the Board Packet. Staff is waiting for the final approval from NTIA on the BEAD eligibility data and Staff is hoping to post the draft RFA for public comment to collect feedback and provide clarity when finalizing the RFA for the full proposal. Staff has a series of subgrantee preparedness workshops being planned and are onboarding the consultants who will provide additional capacity. Staff is estimating the preproposal window will open on or around October 14th and will be open for two weeks. That will provide the initial project areas and ISPs will be able to submit justifications for small changes to addresses that will make the project areas more efficient before Staff finalizes the project areas prior to

BEAD Subgrantee selection. The full proposal is estimated to be open on or around December 14th and will be open for six to eight weeks. This will provide enough time for bids to be submitted. Initial selection, review process and negotiation will be between February to April. When Staff has their selections before they are able to make it public the NTIA will review. From the date of that meeting Staff is not able to post final decisions for 14 days. Staff is anticipating winning bid proposals and announcing the results publicly around but not sooner than April 28th, 2025. Staff is hoping to meet the final proposal on or around June 13th, 2025.

13. VCUDA Update – Ellie De Villiers, Executive Director of Maple Broadband, noted VCUDA is hosting workshops on financial strategy next week and match funding under the CFR rules on September 19th. Ms. de Villiers noted VCUDA has begun to determine their 2025 legislative priorities and went on to say that affordability programs and coordination with other utilities were among some of the topics. Ms. de Villiers noted VCUDA funded the discovery phase of the Digital Equity nationwide competitive grant program that resulted in a coalition forming to pursue the NTIA's competitive grants. While VCUDA is not a core member of the coalition they are providing constructive criticism in an effort to have a strong submission on behalf of the State of Vermont.

14. Public Comment – Christa Shute, NEK Broadband posed the question for the Board as it reconciles ACT 71 and our universal service agreement with the potential of a high-cost BEAD requirement could imply we are not able to bring fiber to an on-grid address. If I am bringing fiber to my on-grid addresses, then I don't have to work toward finding off grid or non-fiber potential solutions. This is something the Board or a subgroup of the Board might consider.

F.X. Flinn commented the CCI line extension work in Chittenden County is costing significantly more per location than what ECFiber is spending or asking VCBB to pay for. Mr. Flinn noted that ECFiber is not recognized for the efficient, economical manner in which it has been building out and serving 25% of the locations. ECFiber is not seeking BEAD funding as the locations are already served by ECFiber, are not locations that need to be served or are not broadband serviceable locations. ECFiber is asking the Board and Staff for recommendations as to how to significantly increase the amount of ARPA funding ECFiber will receive noting of the \$550M in state broadband grant funding, ECFiber received \$17M and the citizens of that district are paying off \$80M in debt.

15. Confirm next meeting date – Set for October 14, 2024, Virtual

16. Board Review – *Executive session pursuant to 1 V.S.A. s.313(a)(3) (3), authorizing a public body to hold an executive session to consider personnel matters* – Ms.

Richards made a motion to go into executive session pursuant to 1 V.S.A. s.313(a)(3) (3), *authorizing a public body to hold an executive session to consider personnel matters* seconded by Ms. Sibilia. The Board went into executive session at 3:33pm and ended the executive session at 3:49pm with no action taken. The Board did not return to public session.

17. Adjourn

Action items:

- Ms. Richards asked Staff to send a Doodle Poll to set up the 1-hour special meeting.
- Ms. Richards asked for the CCCUD Grant to be addressed in the special meeting the first week of October and confirmed CCCUD should come back with a sustainability plan and confirmation of universal service.
- Ms. Sibilia noted she would like Staff to frame the problems that they are trying to solve in the Legislative session, then have the opportunity to work through those with the attorney and our government affairs consultant in executive session.
- Ms. Richards followed up stating in October she would like to review what was left on the table in the last legislative session and what topics the Board wants to be active on in the upcoming legislative session.
- Ms. Richards confirmed the Confidential Memorandum to be included in the October Board Packet.