

NEK Community Broadband

# Governing Board Meeting Minutes

March 11, 2021 5:30-7pm

## Attendees: See list

## Role Call & Agenda Review - 2 Min

**Motion to change the agenda. To pull the minutes out of the consent agenda and for legislative representatives to present before Open Meeting Law discussion.**

**Motioned: Jennifer Barone, Seconded: Carrie Glessner, Carried (22-0).**

- Welcome to the Town of Newport and Wendy Matthews for joining the CUD

## Public Comment - 5 Min

## Consent Agenda - 2 Min

**Motion to approve the consent agenda Motioned: Kathleen Monroe, Seconded: Mark Whitworth, Carried: (22-0).**

- Accept Town of Newport and representatives into NEK Broadband
- FYI: Exec. Comm Minutes; Finance Comm. Minutes, Tech Comm. Minutes, Christine's weekly updates

## Updates

- Proposed: Make an amendment to the minutes. NVDA has funding through the RBDG and the RCDI that will make the contract with the NRTC. Christine will still manage it, but the NVDA has the funding for the contract.
- Discussion to make a new motion.
- Proposed change to the minutes from the last meeting's minutes which stated "A motion to approve contracting with the NRTC." to instead state "A motion to recommend NVDA contract with NRTC."

**Motion to amend the motion made at the last meeting to recommend that NVDA contract with NRTC for the 5 year business plan. Motioned: Paul Fixx, Seconded: Kristen Fountain, Carried: (22-0)**

5:45 - Administrative & Committee Update Discussion

5:50 - Updates from District Administrator

- Since the update was provided we officially got a SAM number and the NEK needs that for grants.
- Take rates for Craftsbury are low?
  - Kingdom Fiber is having a hard time with the contractor, and there could be some marketing to communicate the offer
  - Michael didn't push the marketing because there was a delay in the construction, but now that the splitters are getting done there will be more of a push for marketing.
  - Will Kingdom Fiber be a good partner for the future? Eustice cable is the largest contractor in VT and the east coast, but there are two other options that Kingdom Fiber is having conversations with so there is not a delay for construction.

#### Legislation- Marty Feltus, and Katherine Sims

- American Rescue Plan \$1.052B for VT, State \$121M going to counties \$76M going to all of the towns and cities. Do not have as much county government, so there may be use for that money in other county-like organizations. Available until December 2024.
- Purposes:
  - Respond directly to the pandemic or negative impacts on the state
  - Respond to essential workers
  - Provide for government services that were curtailed
  - Investments in water, sewer, or broadband
- How will they split the money up? Economic Development, Water/Sewer, Broadband
- There is interest at the State Legislature to provide capital for Broadband efforts.
- H360: 30M in new capital for broadband
  - Vermont Community Broadband Authority
  - Laying the groundwork for Fiber (6.3M)
  - Subordinated debt (24M)
  - Property Tax Exemption
  - Transfer of State-owned Fiber Assets to the CUD located in the area.
  - 100K for workforce development (lineworkers)
  - Effective July 1st
  - Voted on next week and will move out of the house and onto the senate.
- Recommendation for the NEK to move forward quickly and as thoughtfully as possible with "shovel ready" projects to take advantage of the state opportunities

## New Business

### 6:00 - Open Meeting Law & Public Records

- Powerpoint presentation was given. Secretary of State website has statutes.
- Public Records (1V.S.A ss 315-320.)
  - Must respond to every request, but work with the person requesting to clarify or refine the request. Whether it is exempt or if you do not have one.
  - Any written or recorded information (text messages, recordings, notes, salaries and benefits, emails, etc.)
  - Reports, memoranda invoices, emails, phone logs, etc.
  - Suggested to coordinate responses through one person.
  - Requests can be processed electronically or paper form, keeping it in an original format as possible.
  - Whoever, has access to the records is the "Custodian"
  - Respond in no more than 3 business days (any day that you are open for business)
    - Can be extended if the record is in active use or storage (7 days), but must inform the asker.
    - Can be 10 days for unusual circumstances
  - Exempt from disclosure? (certify within 3 days that it is exempt)
    - Must be in writing
    - Identify the specific document
    - Who is denying
    - Right to appeal
  - Exemptions
    - Exempt by law, protected by statutory or common law privileges (attorney-client), personnel records (performance reviews), trade secrets/ confidential business records (NDA), records related to contract negotiations, passwords or access codes/security procedures, Account numbers.
  - Appeal
    - To the head of the agency (5 business days to respond)
    - Or to superior court
  - Tips:
    - Minimize unnecessary records:
    - Discourage use of personal email/text

- Only keep records as long as required by law or necessity (record retention schedules on the state site): if you do not have a policy on it, do not destroy it.
  - Pre-identify records that could be exempt
  - When responding, stick to the specific records requested: looking at specific language.
  - Work with requesting person to clarify or refine the request
  - Stick to deadlines
- Open Meetings
  - Does not apply to officers or lesser quorum
  - Any time a quorum of the public body meets to discuss the business of the body or to take any action (not necessarily in person, could impact phone calls or group emails)
  - May discuss meeting schedules and agendas and distribute materials by group email. Procedural. No substantive work or decision making without warning.
  - Cannot vote by email or proxy, can attend virtually
  - Discussion of when warnings need to be given for the meetings
  - Discussion on what is to go in the agenda, and where it needs to be posted.
- Questions:
  - If a document could give advantage over other CUDs it may be exempt
  - Slack a quorum? Must keep a public record of the communications. Any communication is subject to public record and includes any record produced as part of the business of the CUD.
  - Can someone ask for “anything related to x” or does it need to be specific? Respond to any request and work with the person to clarify or narrow the request. They do not have to. Can extend the response time if it is large and interpret the language for something reasonable and narrow. There is no limitation on the amount of records that someone could request.
  - Evan will share the presentation deck to the board.

#### 6:30 - Business Plan Update

- Areas that are “peeled out” NRTC is moving progressively. April 2 will give us a New Model. Christine will be working to build partnerships with the Utilities and ISP partners. Already created the CrowdFiber Microsite and will be updated in real-time.
- What determines, who is already served? Avoid areas that are clearly covered. Other parts of the towns will be addressed that do not have cable.

- How does the state data play into the plan? Finding the inaccuracies of the cable data. Will use the data to get a rough sketch, but by April we will have a network map, to which the board can respond with the inaccuracies to be corrected. Get Christine any data that you can get early on, *please send individually*.
- May be beneficial to have Mike present how to ground truth your area at the next meeting.
- 57 towns? 55 all the towns within the CUD region and Wolcott + Elmore.
- When we have the map design we will build a timeline for construction.

#### 6:40 - 2021-2022 Construction Project Update & ISP MOU

- Check out the ArcGIS maps. Concord, Albany-Irasburg maps have been loaded.
- Want to be able to take advantage of other fundings and are considering moving the initial project to another area. Were considering Walden, but must keep the original project. Revised with a 40K assumption and then ask to add to the network to get to the USDA eligible area (pick up another 250K). East Concord+ includes more addresses than before. Stopping where the GMP poles stop.
- The funds were obligated through the legislature in a way that we will not be able to use it for the walden project.
- Looking at a potential partnership with Kingdom Fiber for this project. MOU sent out. Christine has also had conversations with CCI. Need to have an agreement in place to be able to go to USDA and show that we have an ISP partner to use that funding.
- Preliminary Agreement. Will be needing continued input from the governing board, but we need to know what specific criteria that the relationship will be bound by. Have already given initial expectations, but need to have a more specific contract in the next month or two.
- Pricing, cost options, routes, accountabilities will be discussed in the future contracts
- Trying to find a partner to make public infrastructure.
- Deadline for USDA grant application is before the next governing board meeting
- **Motion to accept the MOU as presented. Motioned: Paul Fixx, Seconded: Mark Whitworth, Carried: (22-0)**
- **Motion to approve the NEK Community Broadband application for the USDA RDBG for the construction of a fiber optic network. Motion: Kristen Fountain, Seconded: Kathleen Monroe, Carried: (22-0)**
- Questions can be answered by Evan, Kristen or Christine on the MOU
- Deadline for RGBD has been extended to March 31st.

- The application requires a motion for the grant. Needs to be shown that we motioned and approved it.

## Other Business

### Adjourn

- **Motion to adjourn. Motioned: Jennifer Barone, Seconded: Mark Whitworth, Carried.**

### Action Items

- Evan will share the presentation deck to the board.
- May be beneficial to have Mike present how to ground-truth your area at the next meeting.

*Respectfully submitted,*

*Jami Jones, NEK Community Broadband Clerk*

A handwritten signature in black ink that reads "Jami Jones". The signature is fluid and cursive, with "Jami" on top and "Jones" below it, both starting with a capital letter.

