

May 14, 2019

**Virginia:**

AT A REGULAR MEETING of the Nelson County Broadband Authority Board at 1:00 p.m. in the General District Courtroom located on the third floor of the Nelson County Courthouse, Lovingston Virginia.

Present: Larry D. Saunders, South District – Chair  
Gary W. Strong – Central District  
Thomas D. Harvey, North District – Vice Chair  
Thomas H. Bruguere, Jr. West District  
Jesse N. Rutherford – East District  
Stephen A. Carter, County Administrator  
Grace Mawyer, Secretary  
Candice W. McGarry, Treasurer  
Susan Rorrer, Director of Information Systems

Absent: None

**I. Call to Order**

Mr. Saunders called the meeting to order at 1:02 PM with all Members present to establish a quorum.

**II. Public Comments**

1. Joe Lee McClellan, Lovingston

Mr. McClellan thanked the Board for their efforts in bringing broadband to all of Nelson County. He noted that he read with interest the fiber broadband transfer agreement between the County and CVSI and did not see where the County is going to hold a public hearing on this transfer. He urged the Board to have a public hearing on this event. He referred to a handout he had given to the Board and noted there is a tower in Massies Mill that is served by microwave system, and the County should be able to serve that by fiber. He stated if he or anyone else got the system, then it should be a contingent in that system that the County be allowed to have dark fiber to that tower from the Lovingston shelter, because that would cut down the expense of maintaining microwave, which is not quite as reliable as dark fiber.

2. Robert Wright, SCS Broadband

Mr. Wright noted that Clay Stewart could not attend the meeting, but he did send an email outlining his comments/concerns.

**III. Consent Agenda**

**A. Resolution – R2019-02 Minutes for Approval**

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Mr. Strong moved to approve resolution R2019-02 Minutes for Approval and Mr. Rutherford seconded the motion. There being no further discussion, Members voted unanimously (5-0) by roll call vote to approve the motion and the following resolution was adopted:

**RESOLUTION R2019-02  
NELSON COUNTY BROADBAND AUTHORITY  
APPROVAL OF MEETING MINUTES  
(January 8, 2019 and March 12, 2019)**

**RESOLVED**, by the Nelson County Broadband Authority that the minutes of said Authority meetings conducted on **January 8, 2019 and March 12, 2019** be and hereby are approved and authorized for entry into the official record of the Broadband Authority meetings.

**IV. New/Unfinished Business**  
**A. Network Operations Report**

Ms. Susan Rorrer presented the following report:

**I. Operational**

Total Number of Connections on 2/28/2019:	580
Installations for March and April:	4
Total Number of Connections on 4/30/2019:	584
Pending Installations:	2
Total Customers on 4/30/2019:	586

**II. Administrative**

- All billing reconciliation items with service providers have been addressed and credits have been issued. Outstanding balances should be brought to current during the month of May.
- Additional follow up has been completed with others regarding outstanding balances.

**III. Financial**

attached

Mr. Rutherford asked if the accounts receivables will remain with the County and not be transferred to CVEC. Ms. Rorrer stated it sort of depends; most of what is related to tower leases would be accounts receivable for the County. She noted what is transferring primarily are dark fiber leases, circuit leases, and to some extent, colocation leases. Mr. Carter noted we will only maintain any outstanding obligations to the Authority, which would be outstanding amortizations, customers would still be responsible to pay, and we've been working with WideOpen Networks to bill those customers directly on behalf of the County. He noted as Ms. Rorrer stated, we'll still have tower leases that will be revenue driven, so there will still be a revenue flow for some time, but all the ISP services through the network, and all those customers, if the transfer is successful, will go over to CVSI.

**B. Treasurer's Report**

Ms. McGarry reported the following:

**Broadband Operations @ 4/30/19**

Beginning Balance 7/1/18	\$ 192,666.56
July -April 2019 Expenditures	\$ (214,985.30)
July-April 2019 Revenues	<u>\$ 528,490.36</u>
<b>Subtotal</b>	<b>\$ 506,171.62</b>
General Fund Transfer 7/1/2018	<u>\$ 100,000.00</u>
Available Balance 4/30/19	<b><u>\$ 606,171.62</u></b>

**Accounts Receivable Aging Summary as of May 9, 2019**

<b>Current</b>	\$ 69,888.36
<b>1-30 days</b>	\$ 50,762.46
<b>31-60 days</b>	\$ (1,068.20)
<b>61-90 days</b>	\$ 6,908.10
<b>&gt; 90 days</b>	<u>\$ 9,649.18</u>
	<b><u>Total \$ 136,139.90</u></b>

**Broadband Fund Revenues and Expenditures**

**Revenues:**

With 16.6% of the fiscal year remaining, YTD Broadband Fund revenues as of April

30, 2019 are coming in at 32.41% higher than budgeted (\$129,365.36). This is primarily due to higher than anticipated receipts of Network Access Charges (\$68,716.03) and Amortized Installation Payments (\$40,369.63).

**Expenditures:**

With 16.6% of the fiscal year remaining, YTD Broadband Fund expenditures are 60.97% less than expected (\$335,959.70). This is primarily due to reduced expenses for all types of installation (\$240,629.84) and less than anticipated expenditures on equipment (\$56,729.05).

Mr. Bruguere asked if the Broadband Authority is going to give the \$100,000 back to the County. Ms. McGarry noted it had been discussed amongst the Board but not formally recommended. Mr. Carter stated the Authority would have to vote to transfer it back. He noted that as Ms. McGarry and Ms. Rorrer indicated, our cash flow is significantly improved because we're catching up to those amortizations and things like that, and we've really been focused on catching up to anything in arrears past 30 days. So, cash flow is catching up and revenues are coming in. He noted this is the best shape the Authority has been in since its inception.

Mr. Rutherford noted that before sending the \$100,000 back, he'd like to discuss tower expansions in the underserved areas that won't be served in the near future.

**C. County Administrator's Report**

Mr. Carter provided the following update:

Mr. Carter noted that his report is pertaining to the transfer agreement. He noted that County staff has been working with CVEC staff for months and conferred with federal NTIA about this transfer agreement as well as the state Department of Housing and Community Development. He added that CVEC and its subsidiary CVSI have retained counsel from Washington, and the County has retained the Richmond firm, Hefty Wiley.

Mr. Carter noted the agreement is very straightforward and subject to approvals, the NCBA and BOS would endorse the agreement as well as CVSI. He stated that the attorneys decided that the means to best comply with State law is to have the transfer lastly effected through the EDA to CVSI. He noted the NCBA assets other than the towers and some fiber assets for County operations would be transferred to CVSI, who would be obligated to maintain the County's requirements with the NTIA. The Authority's operation would in a sense transfer to CVSI, and for some period of time around 11 years, they would be obligated to maintain the network as open access and to fulfill all the duties and responsibilities that the Authority presently has as an outcome of the receipt of federal funding back in 2009-2010.

Mr. Carter noted we are at a point where CVEC's attorneys are fine with the agreement our counsel has drafted, and the next step is to get NCBA's and the BOS's consent to proceed and to send it to federal NTIA and the State Department of Housing and Community Development for their reviews and consents. Once it comes back, we would take it to the EDA to provide a final approval to effect the transfer.

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Mr. Carter noted there are a series of schedules of all the assets that will be transferred, what will be retained, easements, and such that all will have to be addressed. He added Ms. Rorrer and her office have worked diligently to compile this information.

Mr. Carter then noted that there is not a Code of Virginia requirement for a public hearing nor a 30 day public comment period, unless either NTIA or DHCD comes back and requests one.

Mr. Carter reiterated that CVEC's Board has endorsed the agreement and authorized them to sign it, and their attorneys and our attorneys have indicated the agreement is fine. He stated the next step is addressing any questions the NCBA or BOS may have and hopefully getting their consent to send the agreement to Washington and Richmond and wait for any comments from them as well as their approvals to move forward. He noted the NCBA would not go out of existence; the authorities are established for 50 years unless the assets are disposed of or they decide to go out of business.

Mr. Rutherford asked how many towers the NCBA currently has. Mr. Carter stated 3 broadband towers and noted they are County assets, not NCBA assets.

Mr. Strong thanked Mr. Carter and staff for their work and answering his questions.

Mr. Rutherford noted this is a great step in the next direction, and added that we can now focus on the unserved areas in the county and move forward.

Mr. Bruguire asked if the agreement allows other ISPs to hook on. Mr. Carter stated the network that's transferred will still have to be open access. He added nothing should change over some period of time; he could not speak definitively to when the federal obligation would expire, and they think it's about 11 years. He noted what would happen at that point would be up to CVEC. Ms. Rorrer noted she believes the grant was awarded in March 2010.

Mr. Rutherford moved to authorize the Chairman to sign the fiber backbone transfer agreement on behalf of NCBA and then submit to federal NTIA and the Virginia DHCD for approval and consideration to transfer the network to CVSI. Mr. Strong seconded the motion, and there being no further discussion, Supervisors voted unanimously (5-0) by roll call vote to approve the motion.

Mr. Saunders thanked everyone involved in this for their hard work.

#### **V. Other Business (As May Be Presented)**

Mr. Rutherford stated he would like to discuss some towers. He noted with the transfer to CVEC, the west, south, and east districts will be a little bit more underserved as they have a lot of APCO clients. He thought it would be appropriate to solicit a solution for those people.

Mr. Strong asked if it's possible to go microwave to a tower and then fiber from that tower. He noted heavily wooded areas make it difficult to get penetration with a strictly microwave/wifi link. Mr. Strong then noted that after this transfer has moved forward, there's a concern to providers that it's difficult to establish a sufficient market share in underserved areas such that the investment and capital that's required

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to bring the service turns into a profit. He noted we need to have an aggressive look at what kinds of funding becomes available for hardcore underserved areas like that.

Mr. Carter noted we could work with Wide Open Networks, who was the Authority's previous consultant, on a new strategy and make a report back to the Board on that including financials and what optimal solutions may be. He added that towers may not be a solution to the problem.

Mr. Saunders suggested having an initial study to see if that's the right direction to go.

Mr. Strong asked if the study is within the contract with Wide Open Networks or if it's an additional contract that needs to be considered. Mr. Carter stated that they would have to be paid to do the study. Mr. Saunders noted an estimate could be obtained. Mr. Carter noted that Staff could reach out to other companies as well, but they are already under contract with the County, so it may be easier to work with them. He stated Staff would look into this and bring it back to the Board.

Mr. Bruguere stated it may be prudent to have a work session with the other high speed carriers to get their input.

Mr. Carter suggested initially talking to Wide Open Networks or someone else to obtain an initial draft report on what they recommend pursuing. He noted Staff would do their best to get a report back to the Board before the next meeting.

## **VI. Adjournment**

At 1:45 PM, Mr. Rutherford moved to adjourn and Mr. Strong seconded the motion. There being no further discussion, Members voted unanimously (5-0) by roll call vote to approve the motion and the meeting adjourned.