

**LOUISA COUNTY BROADBAND AUTHORITY
BOARD OF DIRECTORS
LOUISA COUNTY OFFICE BUILDING
1 WOOLFOLK AVENUE
LOUISA, VIRGINIA
February 21, 2018 7:00 P.M.**

Present: Melvin Burruss, Bernie Hill, Mary Johnson, Mark Luttner and Jim Ogg (non-voting), and Garth Wermter

Absent: Brian Sullivan

Others Present: Duane Adams, Mineral District Supervisor; Tommy Barlow, Mountain Road District Supervisor and Bob Hardy, Louisa County Information Technology Director

CALL TO ORDER

Ms. Johnson called the February 21, 2018, special meeting of the Broadband Authority (BBA) Board of Directors to order at 7:00 p.m.

Mr. Wermter led the Pledge of Allegiance.

ADOPTION OF THE AGENDA

Mr. Hill requested to change item “d.” under “Unfinished Business” to state “Discussion of the IFB for License for Point-to-Point Wireless Equipment” and to add an additional item “e.” to state “Discussion of the System Wide Lease Agreement”.

On the motion of Mr. Hill, seconded by Mr. Wermter, which carried by a vote of 5-0, the Board voted to amend and adopt the February 21, 2018, agenda with the aforementioned changes.

APPROVAL OF THE MINUTES

On the motion of Mr. Hill, seconded by Mr. Luttner, which carried by a vote of 4-0, with Mr. Wermter abstaining, the Board voted to approve the February 7, 2018 meeting minutes with the amended changes.

PUBLIC COMMENT

There was none.

NEW BUSINESS

There was none.

UNFINISHED BUSINESS

Discussion- Public Information Handout

Ms. Johnson stated that the Authority would continue the discussion at the next meeting. She stated that the Authority had previously discussed creating a Facebook page. She stated that she had briefly spoken with Mr. Adams, but that she had not done anything with the potential social media yet. She stated that she would request the Authority's permission before anything was posted.

Mr. Ogg discussed the potential sketch that he had suggested at the previous meeting that would display the project, its basic goals and facts that would be understood by the average citizen and could be published in the local newspaper. He emphasized that the public needed to understand the project clearly.

Ms. Johnson stated that the Authority looked forward to reviewing the sketch. She requested that Mr. Ogg distribute the sketch to the Authority via email, prior to an Authority meeting.

Mr. Hardy requested that Mr. Ogg distribute the current sketch that he had to the Authority in order for members to get the basic premise of his idea.

Mr. Adams noted the comments that citizens posted on a recent *Central Virginian* article regarding CVEC's presentation to the Board of Supervisors. He stated that although the article itself was factual, the citizens' comments below were not always factual about the project. He stated that this supported his previous advice that the Authority needed to control an accurate message that would be relayed to the public so that citizens accurately understood the facts of the project.

Brief discuss ensued regarding the comments of Facebook and the need to control the message relayed to the public.

Mr. Hardy suggested that the Authority might want to appoint someone to respond to misinformation on other places on Facebook in order to correct the misinformation and direct citizens to accurate information on the Authority's webpage platform(s).

Mr. Adams and Ms. Johnson concurred that there should be one representative to respond to misinformed comments. Ms. Johnson stated that at present, she believed this was something she could be responsible for. Mr. Hill concurred.

Mr. Ogg discussed the CVEC presentation and inquired if there was a timeframe from Mr. Wood regarding when the project would be started. He stated that regardless of the Louisa County Broadband project, CVEC would be coming to the County.

Ms. Johnson stated that Mr. Wood would be presenting to the Authority at the March 7th meeting and requested that Mr. Ogg have a list of prepared questions to ask him then regarding the CVEC

project. Mr. Ogg concurred. He inquired as to what the burning desire was for the Authority to get in the market if CVEC would be coming to the County anyway.

Mr. Luttner stated that they would not be in the market for years. He stated that CVEC would only be serving 20% of the County, and that the company had requested \$2 million from the County for the project.

Ms. Johnson requested that the Authority address their questions directly to Mr. Wood at the next meeting.

Discussion- Building Permit Approval Status

Mr. Bussing stated that he had spoken with the building official's office, and that they were still waiting on the surveyor to complete his responsibilities. He stated that the surveyor had committed to finishing by Friday, February 23, 2018. By then, Mr. Bussing stated that the paperwork could be submitted to the building official who confirmed that there would be a two or three day turnaround time. Mr. Bussing stated that there was a review process after they concluded the CUP process which they had already gone through. He stated that that might be what the four week review process was.

Ms. Johnson stated that if Mr. Bussing had been speaking with the building official, Mr. Paul Snyder, specifically, then they often facilitated it. She inquired as to whether the Authority could plan for the next towers on getting the building permit application in immediately after the CUP was approved, in other words, have it ready, prepared, surveyed and complete.

Mr. Bussing stated that they could do that. He stated that after the CUP was approved for the first three towers, they had not had a contractor under contract and that the building permit goes to the contractor. He stated that once he received information back from the surveyor and plan reviewers the following week, he would email the Authority.

Mr. Hardy stated that the following week would be the week that the Community Development Department would be receiving training for their new software, that they would be shutting down applications on Thursday and Friday (March 1st and 2nd), after that they would convert all of the old system to the new one and would open up the following Monday morning (March 5th) with the new software. He stated that if they were counting on a two to three day turnaround time and that the Department was already going to be down for two days converting data, they could be set back. He stated that if the surveyor was finishing by February 23rd, it might take some time to do the drawings, certainly regarding the Moss- Nuckols location. He stated that the timeline would be tight.

Ms. Johnson asked Mr. Hardy to keep the Authority posted if he heard any changes.

Mr. Bussing stated that he did not want to overpromise anything so it might be the week after the following week, if the Community Development Department did have a shut down.

Brief discussion ensued regarding submittal dates to the Community Development Department.

Ms. Johnson suggested that Mr. Bussing be briefed on all of the new procedures through the Community Development Department.

Mr. Bussing stated that the Authority should expect to hear something before March 7, 2018.

Discussion- Approve Tower Construction Completion Date(s)

Ms. Johnson stated that Mr. Bussing had provided the Authority with a task list taken directly from the gantt chart that the Authority had requested from him. She stated that she liked the list, and that it allowed her to see everything going on. She stated that she had asked Mr. Bussing to look at each of the opportunities as separate projects and as they developed, to update the list.

Mr. Bussing stated that what he had started doing was splitting up the initial timeline and initial Microsoft Project Plan into separate files and separate timelines essentially for each tower project they were working on. He stated that the overall project included the CUP and construction process for other towers. Mr. Bussing explained that what he had been able to do with the gantt chart was export the activities and their dates into a table. He stated that for the next regularly scheduled meeting, he planned to break that out so that it was one project per page. He stated that he currently had the table headers highlighted but that if they broke it down to one per page, it would be a lot easier to summarize. Mr. Ogg and Ms. Johnson concurred.

Mr. Bussing stated that some information in the timeline was still being developed, based on ongoing conversations with NCT and information gathering regarding the colocation towers. He stated that they would be updating that data and the format for the next regular meeting.

Mr. Bussing stated that everyone seemed particularly interested in the fast-track tower construction. He stated that he had spoken with Mountain Valley as well as the building official's office and that they still seemed on track for having the towers stacked within four (4) to six (6) weeks, weather permitting.

Ms. Johnson stated that the task list gave the Authority more of an accurate timeline. She stated that it appeared from the timeline that the construction complete dates would be in May 2018.

Mr. Bussing stated that the construction complete dates also included the order to each of the power providers. He explained that they had initially stated that power would be available later, but that the tower itself would be available for service providers to start constructing on them before the tower was complete.

Ms. Johnson stated that it looked like the tower would be up in March 2018 but that there were more things that needed to happen after that. She stated that it was much easier for her to understand.

Mr. Bussing stated that the next step would also be to translate some of the timeline data to the type of handouts that Mr. Hill would be working on so that there was data that was understandable to the public. Ms. Johnson concurred.

Ms. Johnson stated that there were still items that needed to be finalized which could affect the timeline.

Brief discussion regarding the timeline ensued.

Mr. Wermter suggested that the three fast towers and wireless point-to-point on tower construction be made available for public consumption.

Mr. Bussing stated that during the previous meeting, the Authority had discussed publishing a handout, and that some of these dates could be included in the handout.

Mr. Wermter stated that that was great, but that personally, he wanted Mr. Bussing's efforts focused on the project and not public relations for the project. Several Authority members concurred.

Brief discussion ensued regarding the handout, what information should be included on it and the timeline of the project.

Mr. Bussing stated that he would make updates to the task list.

Ms. Johnson stated that until the changes were made to the timeline regarding backhaul and what the service providers could do, the Authority should hold off on public distribution.

Mr. Barlow inquired as to which of the towers on the handout were the fast track towers.

Ms. Johnson indicated that they were the towers in orange.

Brief discussion ensued regarding the handout.

Mr. Adams inquired as to what the timeline was to install the equipment on the towers.

Mr. Bussing stated that the actual active construction time would take approximately several days, a week max per tower.

Brief discussion ensued regarding the timeline and projected dates.

Ms. Johnson stated that she would like to schedule a meeting with Mr. Gallagher with NCT. She asked Mr. Adams if he was interested in meeting with him as well. Mr. Adams stated that he was.

Mr. Hardy suggested that they have some answers regarding how they could proceed with any one of the three scenarios they had presented:

1. NCT construct a tower where they do not need the Authority;
2. NCT construct a tower on County property; or
3. NCT construct a tower with the County's assistance on someone else's property.

Ms. Johnson concurred.

Mr. Hardy stated that the Authority needed to have answers regarding whether they were allowed to do that through the County's procurement process or whether they needed to do an RFP.

Ms. Johnson stated that she would reach out to Mr. Gallagher about potential meeting dates, and that she would contact Mr. Hardy and Mr. Adams regarding those dates in order to tie up some loose ends so that they could move forward. She stated that she would try to reach out to Mr. Gallagher the following day.

Discussion- IFB for License for Point-to-Point Wireless Equipment

Ms. Johnson referred to the IFB draft that the Authority had received. She stated that this was the opportunity for any recommendations for revisions or corrections to it so that it could be approved, and Mr. Bussing could work with Mr. Massie in order to get the IFB out so that the project could stay on track.

Mr. Hill inquired if the draft was the same version.

Mr. Bussing stated that it was but with different dates. He stated that he had included the dates suggested by Mr. Massie who had suggested posting the bid on Friday, February 23rd with questions from vendors due on March 1st, and responses to those vendor questions issued on March 6th. The due date would be March 13th.

Mr. Hill asked Mr. Bussing if the dates worked for him. Mr. Bussing stated that they did.

Mr. Bussing stated that as this was essentially an equipment quote for retail equipment, the twenty (20) day turnaround timeframe would be fine. He stated that if it was a construction bid, then they would have needed more time.

Mr. Bussing stated that on IFBs, they would select the lowest price as long as it met the criteria.

Brief discussion ensued regarding the criteria.

Mr. Hill stated that Mr. Bussing and several other Authority members would evaluate the vendor responses. Mr. Bussing stated the Authority could select an Evaluation Committee at the next meeting but that they would do a technical review of each of the bids, especially if there were any alternates, to make sure they met the technical requirements.

Mr. Wermter inquired as to whether there was a standard hardware warranty on the draft. He stated that the term length for the hardware warranty should be stated specifically in the IFB and that he preferred a three (3) year warranty but that he would defer to Mr. Bussing regarding that time length.

Brief discussion ensued regarding the need for an evaluation committee.

Ms. Johnson requested that Mr. Wermter and Mr. Hardy run point with Mr. Bussing to advise the rest of the Authority regarding the mechanics of the IFB.

Brief discussion ensued regarding the dates listed in the IFB. Mr. Hardy stated that he would like to go to the Board of Supervisors by March 19th. He stated that they would need to have at least four (4) member to meet sometime after March 13th.

Mr. Hardy suggested that four Authority members commit to meeting on March 19th since he believed that an official vote needed to be taken by the Authority in order to recommend to the Board of Supervisors to authorize the purchase order.

Ms. Johnson asked Mr. Bussing if that was enough time. Mr. Bussing stated that it was.

The Authority agreed to hold a special meeting on March 19th at 5 p.m.

On the motion of Mr. Hill, seconded by Mr. Luttner, which carried by a vote of 5-0, the Board voted to approve the form and content of the IFB for release as amended regarding warranties.

Discussion- System Wide Lease Agreement

Ms. Johnson referred to the document that was distributed to the Authority.

Mr. Bussing stated that the document did not require action but asked that the members send him feedback on it. He stated that they would be drafting the document into an RFP that they expected to have ready at the next regular meeting. He explained that most of the lease included regular lease language but that there was a performance section that would elaborate on some of the things they would like to seek from the service providers such as reporting requirements from the provider to the Authority. He stated that they would have performance requirements regarding the speeds that would go out on the tower and that this was the section of the RFP that essentially stated that in addition to the lease, these were the other expectations of the service providers.

Mr. Hill stated that initially, he thought there needed to be language that obligated the service providers to a certain timeframe for building out their delivery network to customers. He stated that they might not need to include that language since the providers would probably want to deliver service as soon as possible in order to recoup their expenses and make a profit.

Mr. Wermter stated that what they wanted to do was ensure that the service providers did put equipment on the tower so the idea that he suggested was to serve at least one customer off of each tower. He suggested that this be included in the performance expectation section. He stated that there must be some sort of performance expectation of that, otherwise the space would just be reserved and that the Authority wanted to enable competition.

Mr. Hill inquired as to whether Mr. Wermter suggested serving just one customer.

Mr. Wermter stated that WISPs could control serving one customer. He stated that they could not control a take rate.

Mr. Hardy suggested adding the language of serving at least one customer “within two months of notification by the Authority that the tower is ready for your service”. He stated that once the equipment was in place, the service providers would be motivated to offer as much service to people as possible.

Brief discussion ensued.

Mr. Hardy noted that he did not like the language included under section 15-1 and stated that it was way too broad.

Mr. Bussing stated that the language was included as such so that if the service providers could not extend service to a business or residents, that there would be a back loop back to the Authority which would be able to say that they had service requests that they could not extend service to so that the Authority would know where in the County people were requesting service and could not obtain it.

Brief discussion ensued regarding coverage and requests for service.

Mr. Adams inquired who would build the community poles as he was not clear on that.

Mr. Bussing stated that initially they were expecting the provider to building them as the County did not have additional funding at the time to build them.

Mr. Adams encouraged this and stated that the lease agreement could allow providers to assume that the County would pay for the community poles. He stated that they needed to be careful regarding the language they used, especially regarding the language that stated “we’ll work to find a solution”.

Discussion regarding build-out activity ensued.

Mr. Barlow emphasized that any language included in the lease agreement needed to provide clarity that the County was solely providing the backbone for the project. The Authority concurred.

Discussion ensued regarding the language in the lease agreement.

Mr. Wermter concurred with Mr. Bussing and stated that the Authority would like a formal reporting mechanism, especially from the anchor tenants. He suggested that a reporting performance requirement be added for the feedback from anchor tenant WISPs. He stated that this was not an action item, but a reporting item.

Mr. Bussing stated that he would adjust the language to reflect Mr. Wermter’s request.

Mr. Wermter stated that Mr. Adams made a valid point.

Mr. Adams inquired as to why there was language in the lease agreement that allowed the County to be engaged in requiring to the service providers what their pricing structure should be. He questioned whether that was a government function.

Mr. Bussing stated that he was under the impression that the County had the expectation that whatever pricing the service provider included in their bid, that once they located on the towers, that was the service that would be available to the public. He stated that he did not think it would be a government function to set the prices or dictate what services they could do.

Discussion ensued regarding the pricing, language including in the lease agreement, the need for a reporting mechanism in the lease agreement and the effect on competition.

Mr. Hill inquired as to whether this would be awarded to one anchor tenant. He stated that if they decided that they wanted additional competition at a later date, they would issue another RFP for other tenants that were not anchor tenants.

Further discussion ensued regarding the worksheets at the end of the lease agreement draft.

Mr. Bussing discussed the language of the lease agreement in more detail. He stated that there was language included that stated that the Authority could add to the system-wide lease and that the rate for rent would just be based on the latest table of all the vertical assets.

Ms. Johnson stated that Mr. Wermter had made a pseudo recommendation to move some of the language of section 15-3 and place it in some form under section 19. Ms. Johnson stated that she strongly agreed with this suggestion.

Mr. Wermter discussed the concept of performance and termination. He suggested adding performance clauses to the agreement that rescinded some rights that the anchor tenants would provide. He stated that perhaps they could include a financial disincentive, loss of preferred channel. He stated that including disincentives other than just termination would incentivize providers not only to conform but to know that they were protected.

Mr. Bussing discussed options such as this that had been incorporated in the past such as applying a rent discount to providers who were meeting all expectations. He stated that if performance expectations were not met, providers could lose their discount.

Discussion ensued regarding default rents, discount rental fees, performance expectations and the need for a remediation clause.

Mr. Burruss inquired as to why the agreement referenced the County so much. He suggested that the Authority be referenced instead as the authorizing agent for the County.

Mr. Hardy stated that he believed that the entire lease agreement would actually be with the Authority rather than the County. He stated that this was a topic that had come up before for the

Authority to become the agent for managing the towers, radios and fiber. He stated that this would require approval from the Board of Supervisors just as the Authority was authorized to do the plan. He stated that the next step and all of the responsibilities involved with operating the towers as well as operating the fiber would need to be approved by the Board of Supervisors so that the Authority could act as the agent. Mr. Hardy stated that there was not a designated employee to handle the responsibilities associated with managing operating responsibilities. He stated that the County could act as the financial agent by taking in the money for the ISPs and putting it into the account.

Ms. Johnson stated that since the Board of Supervisors had approved the CIP for additional strands of fiber at their last meeting, she believed that moving forward, it was appropriate to send a letter of request to the Board of Supervisors on behalf of the Broadband Authority.

Further discussion ensued regarding the language in the lease agreement.

The Authority agreed that they needed to receive approval from the Board of Supervisors so that the Authority could act on their behalf in order to manage the operating responsibilities. Ms. Johnson stated that this needed to be done as soon as possible.

Mr. Bussing stated that they could release an RFP that included language that stated either the County or the Authority. Members of the Authority agreed with his suggestion.

Ms. Johnson stated that the County Attorney also needed to review the agreement before it was approved.

Mr. Wermter stated that there were incentives that needed to be included in the agreement for the providers to become an anchor tenant, a reduced rate, choice of location on the tower and frequency assigned.

Mr. Bussing stated that the RFP would talk about what the lease would result in.

Mr. Wermter stated that this language was important because the anchor tenant would have the right to decline or claim certain sets of frequencies. He stated that secondary tenants, if interfering with those tenants would be asked to move. He stated that if the anchor tenant was interfering with channel 6 or wanted to change to channel 6, they would then move into the remediation clause since it would fall into the failure to perform category and needed to be defined explicitly in order for the County to have legal recourse.

Further discussion ensued regarding the sets of frequencies and the anchor tenants' ability to use some of the frequencies.

Mr. Hardy mentioned that no one could regulate unlicensed frequencies. He stated that the Authority could only regulate the interference since the providers would be located on County-owned towers. He stated that the anchor tenant could not take all of the frequencies. He stated that there needed to be frequencies available for second and third tenants if possible.

Mr. Bussing stated that he would look up other examples.

Mr. Wermter also stated that there needed to be a reporting request, because the Authority would want to be notified of what frequencies the providers were located at.

Mr. Bussing stated that another example was along the lines of what ranges they would like in their lease before providers located on the tower.

Mr. Wermter stated that as long as there was a reporting mechanism in place, he did not mind if frequencies changed.

Mr. Bussing stated that they needed to discuss the first draft so that the Authority could be much closer to finalizing the draft at the next meeting.

Ms. Johnson also reminded him that they needed to allow time for the County Attorney's Office to review the agreement.

Mr. Hardy stated that they had originally discussed a \$350 transport fee for all eleven (11) towers and suggested that this be added to the agreement on the second to last line.

Ms. Johnson requested that Mr. Bussing make the tracking changes to the document and recirculate the agreement so that the Authority could view which changes had been made prior to the next meeting on March 7, 2018.

Mr. Bussing stated that he would add the RFP language along with the draft evaluation criteria language as that would be in the RFP versus the lease agreement.

Mr. Wermter requested that Mr. Bussing send the draft to the County Attorney prior to sending it out.

Mr. Hardy also suggested that the RFP include a draft lease that could be stated "as subject to change" which could change based on who became the anchor tenant.

Ms. Johnson requested Mr. Bussing to circulate the document to the Authority for review.

Mr. Barlow requested that regarding the number of people served, that the language be changed to state that the provider would serve at least one person.

Authority members concurred with Mr. Barlow's suggestion.

Mr. Bussing requested that if any Authority members thought of suggestions, that they email their comments to him.

PUBLIC HEARINGS

There were none.

CHAIRMAN/GENERAL MANAGER’S REPORT

There were none.

DIRECTOR AND LIAISON REPORTS

There were none.

CONSENT AGENDA

There was none.

APPROVAL OF THE BILLS

There were none.

CLOSED SESSION

There was none.

FINAL COMMENTS

There were none.

NEXT MEETING

The next Broadband Authority meeting will take place on Wednesday, March 7, 2018, at 7:00 pm.

ADJOURNMENT

On the motion of Mr. Wermter, seconded by Mr. Hill, which carried by a vote of 5-0, the Board voted to adjourn the February 21, 2018, special meeting at approximately 8:51 p.m.

BY ORDER OF:

MARY JOHNSON, CHAIRMAN
BOARD OF DIRECTORS
LOUISA COUNTY BROADBAND AUTHORITY