



## CV FIBER GOVERNING BOARD MEETING MINUTES

GoToMeeting (virtual meeting only)

May 12, 2020

### **Present:**

**Governing board delegates:** Ken Jones (Montpelier), Ray Pelletier (Northfield), John Russell (Worcester), Michael Birnbaum (Plainfield), Andrew Gilbert (Cabot), Tom Fisher (East Montpelier), Chuck Burt (Moretown), David Healy (Calais), Joshua Jarvis (Barre Town), Philip Hyjek (Middlesex), Jeremy Hansen (Berlin), Trevor Thorpe (Woodbury), Greg Kelly (Barre City), Siobhan Perricone (Orange).

**Alternate delegates:** Allen Gilbert (Worcester), Jerry Diamantides (Berlin), Jeremy Matt (Plainfield)

**Others:** Dan Grossman (Interisle), Fred Goldstein (Interisle), M. Caldwell (?), Steve Harris (?), Tim Wheatley (?)

**Called to order:** 6PM by Jeremy Hansen via GoToWebinar

**Public comment:** None

### **Additions to the agenda:**

- Appointment of Chair, Vice-Chair, Treasurer, and Clerk
- Private Records Requests
- Update on solicitation of partners for RDOF
- Northern Borders Regional Commission grant funding

### **Appointments**

- This is the CVFiber annual meeting, and the Chair, Vice-Chair, Treasurer, and Clerk positions need to be (re)appointed.
- Appointment of Chair:
  - MOTION (Chuck Burt, second Siobhan Perricone): to re-appoint Jeremy Hansen as Chair of the board. No discussion. Motion passed unanimously.
- Appointment of Vice-Chair:
  - MOTION (Siobhan Perricone, second Andrew Gilbert): to re-appoint Philip Hyjek as Vice-Chair of the board. No discussion. Motion passed unanimously.
- Appointment of Treasurer:

- Meeting with treasurer candidates is pending. Treasurer position will remain vacant until the candidates can be interviewed
- Appointment of Clerk:
  - MOTION (Chuck Burt, second Siobhan Perricone): to re-appoint Jeremy Matt as Clerk. No discussion. Motion passed unanimously.

**Reports back about recent meetings**

- Jeremy Hansen reported on the following meetings:
  - Peter Welch held a meeting with electric utilities, CUDs, and ISPs to discuss how to move forward in improving broadband access across the State. This meeting included discussion of how to provide support to CUDs, discussion of what stimulus funds can be used for, a presentation by Rob Fish (which went well and appeared to be well received), and discussion of the Emergency Broadband Action Plan
  - Velco will be holding a meeting (Jeremy Hansen to attend) to discuss how they might work with CVFiber and what plans they have on tap
- Chuck Burt had a conversation with VSECU and has a meeting scheduled with a Vice President there

**Public Records Request**

- Jeremy Hansen reported that he has received a formal Open Records request that CVFiber provide “the Interisle deliverables”. This is interpreted to mean the current DRAFT of the Feasibility Study provided by Interisle. Jeremy noted that CVFiber’s options are to 1) release the DRAFT Feasibility Study (the DRAFT) in its entirety, 2) find that releasing specific portions of the DRAFT would put CVFiber at a competitive disadvantage and to redact those portions, or 3) find that releasing any portion of the DRAFT would put CVFiber at a competitive disadvantage and to not release any of it. Jeremy noted that there are certain elements in the DRAFT that CVFiber received under a Non-Disclosure Agreement (NDA), and that those items would need to be redacted regardless. Jeremy Hansen then asked for discussion from the board
  - Siobhan Perricone and Chuck Burt both supported releasing a redacted version of the report, and supported redaction of maps, financials, and specific discussion of routes
  - David Healy said that CVFiber can’t have dialogue with CVFiber’s member communities without discussing routes, cost, etc. and that he thinks that the DRAFT should be public.
  - Josh Jarvis asked if they can come back and request that CVFiber provide the redacted information
  - Allen Gilbert noted that he is not a lawyer, but provided the following information based on his experience:
    - CVFiber is a public entity, so all information CVFiber has is by definition public and needs to be released on request UNLESS CVFiber can point to a specific exemption that covers the information, CVFiber thinks must be withheld
    - Discussion of the process and timing. CVFiber has a total of three days to respond to this request. The requesting party then has 5-days to appeal. If there is an appeal, it goes to adjudication. If adjudication finds against CVFiber, court is the next step. However, there would be penalties if the court case is lost.

- Discussion of some of the specific exemptions that could potentially apply
- Josh Jarvis noted that CVFiber should be careful about the optics of this from a public relations standpoint
- Michael Birnbaum agreed that it is had to withhold information from the people CVFiber represents, but there are many ways this could lead to CVFiber’s detriment. Michael asked if it would be possible that so much of the DRAFT would have to be redacted that the result would be offensive.
- Allen Gilbert stated that as he understands the law, CVFiber needs to release any portion of the DRAFT that is not sensitive
- MOTION (Michael Birnbaum, second Chuck Burt): to ask Jim Barlow for his legal opinion regarding how to proceed. Motion defeated unanimously.
  - Discussion:
    - Philip Hyjek asked if CVFiber can put this in front of Paul Giuliani (SP?) instead. He thinks it would be a liability for Jim Barlow to do this work for free.
    - Andrew Gilbert thinks that releasing would not put CVFiber at a competitive disadvantage and that he intends to vote No on the motion
    - David Healy indicated that he does not think CVFiber needs to hire a lawyer

- Roll Call Vote:

Name	Vote	Name	Vote	Name	Vote
Andrew Gilbert	No	David Healy	No	Greg Kelly	No
Chuck Burt	No	John Russell	No	Josh Jarvis	No
Ken Jones	No	Michael Birnbaum	No	Siobhan Perricone	No
Philip Hyjek	No	Ray Pelletier	No	Tom Fisher	No
Trevor Thorpe	No	Jeremy Hansen	No		

- Jeremy Matt asked if CVFiber can un-designate portions of the DRAFT as sensitive at a later date if CVFiber needs to use that information in discussions with CVFiber’s communities or other entities?
- Jerry Diamantides said that he disagreed with having this discussion at all and felt that it is a distraction. His position is that the information in the DRAFT are not trade secrets and that there are only so many ways to conduct a project such as this. He thinks that anyone in the industry would be able to easily guess at or recreate CVFiber’s approximate plans. He thinks that the only items that are redactable are the items CVFiber received under NDA.
- Ken Jones says that he thinks CVFiber would be at some competitive disadvantage, but that it would not be worth fighting in court
- Greg Kelly noted that there is a lot of information in the report sourced from third parties that is not public domain but was not received under specific NDAs. At a minimum CVFiber needs to contact those entities for permission before releasing this information. Greg also noted a specific advantage a competitor could gain in knowing CVFiber’s proposed routes: they could license space on the poles with no intent to build simply to drive up CVFiber’s costs.
- Siobhan Perricone noted that the areas CVFiber is planning to build are now much more desirable locations to build given the amount of potential stimulus money floating around. She thinks CVFiber needs to hold onto every advantage.

- Michael Birnbaum agreed that locations that formerly offered poor returns are now potentially attractive given subsidies. He also noted that much of this money may be distributed by auction, and in such a case having information about CVFiber’s financials could help a competitor know how low they need to go to beat us.
- Jeremy Matt stated that he thought the public would understand and accept that this information could put CVFiber at a disadvantage and that they would understand. Therefore he doesn’t think there would be a public relations problem with the member towns
- MOTION (Ken Jones, second Greg Kelly): to direct Jeremy Hansen to convene a working group to determine what elements of the DRAFT would put CVFiber at a competitive disadvantage, to determine the specific exemptions covering those elements, and to redact those elements (including trade secrets received under NDA) from the document before responding to the Open Records request. Motion passed 7 to 6 by roll call vote.

- Discussion:

- David Healy asked if CVFiber will need to ask potential RDOF partners to sign an NDA if the motion passes. Jeremy Hansen said that yes, CVFiber would need to ask partners to sign NDAs
- David Healy noted that there are outstanding edits that CVFiber has provided to Interisle, and that he thinks CVFiber should update the document to reflect those changes before responding to the request.
- Andrew Gilbert said that in his opinion CVFiber not a competitive because CVFiber is a public entity
- Jeremy Matt said that he thinks that if the rural broadband buildout is left to for-profit companies there is a very good chance that they will do what they’ve done in the past: only build areas where they think it is profitable to build. It will then be even harder to reach areas that the for-profit companies neglect, so CVFiber by necessity must compete with private entities to complete the mission

- Roll Call Vote:

Name	Vote	Name	Vote	Name	Vote
Andrew Gilbert	No	David Healy	No	Greg Kelly	Yes
Chuck Burt	Yes	John Russell	No	Josh Jarvis	No
Ken Jones	Yes	Michael Birnbaum	Yes	Siobhan Perricone	Yes
Philip Hyjek	Yes	Ray Pelletier	Yes	Tom Fisher	No
Trevor Thorpe	No	Jeremy Hansen	*		

\* - Motion already passed 7 to 6, did not vote

**Discussion of the DRAFT Feasibility Study**

- David Healy noted that CVFiber has some minor comments for Interisle, but overall he is very pleased with the work they did. He noted that he hopes the board will approve the feasibility study contingent on Interisle completing the edits. Jerry Diamantides agreed with these points
- Fred Goldstein noted that he hasn’t received the edits and asked if CVFiber could send them. Jeremy Hansen did so
- Ray Pelletier noted that there were some towns that were not included at all in potential routes discussed in the DRAFT and asked why

- Fred Goldstein responded that the intent of the DRAFT was to plot out potential first steps, not to plan the entire CVFiber network. He noted that the following criteria were used when choosing routes:
  - Avoid overbuilding areas where cable or fiber already exists because these areas will likely have a lower take rate and building in these areas doesn't fulfil CVFiber's mission of providing high speed internet to under-served locations
  - Due to the VEDA loan requirements and the need to be cash-flow positive within three years, the plan had to target areas that were easier to build
- Ray Pelletier asked about financial stability calculations
- Fred Goldstein responded that there would be more information about this in the business plan, and that he's already started working on it.
- Ray Pelletier asked about the density per mile of specific routes, and asked if Interisle had considered looking at the density of locations with poor internet connections as opposed to the overall density.
- Fred Goldstein noted that the purpose of the feasibility study isn't to set the exact build order in stone. The purpose is to look at a representative pilot area to show feasibility. He noted that the preliminary numbers he's getting look in the "feasible but not super profitable" range.
- MOTION (Jeremy Hansen, second Siobhan Perricone): to conditionally approve the DRAFT Feasibility Study pending completion of the outstanding edits requested by CVFiber and to release the DRAFT Feasibility Study to the Public Service Board once the edits are complete. Motion passed by unanimous consent.
  - Discussion:
    - Michael Birnbaum noted that there are outstanding edits that CVFiber has provided to Interisle, and that he thinks CVFiber should update the document to reflect those changes before responding to the request. Jeremy Hansen disagreed, saying that the request was for deliverables CVFiber actually has. CVFiber doesn't have the edits yet so they aren't covered by the request.

### **RDOF & Northern Borders Regional Commission Grant Update**

- David Healy reported that he sent requests to 9 potential RDOF partners and received 7 responses (although on further discussion one is expected to drop out). He noted that WEC is dragging their feet, so while they're interested he's not entirely sure how to handle it.
- David Healy reported that he had a discussion with the Northern Borders Regional Commission and was encouraged to apply. He is currently working on writing the grant and noted that CVFiber has some letters of support, but that more are needed. He asked the board members to approach their communities. Letters are due to David Healy by May 29, 2020.

### **Response to the Emergency Broadband Action Plan**

- Jeremy Hansen noted that the State is asking for comments on the Emergency Broadband Action Plan, and said that he thinks CVFiber should weigh in on the following specific points:
  - The plan should include funding for administrative support for CUDs (an executive director, grant writing, minute taking, etc)
  - The plan currently describes going around RDOF blocks and explicitly goes around areas with 25/3 or better service. Jeremy Hansen thinks this is overly complicated and that town-by-town block grants would be much simpler
  - There should be updates to the Open Records laws to provide specific exemptions for CUDs

- Develop a generic website template that CUDs can use (to include billing, etc)
- Access to information regarding the location of all fiber in the State
- Better cellular coverage maps
- A good inventory of poles/towers
- Michael Birnbaum noted that the owners of the poles are liable for the poles and are therefore the ones to do pole surveys
- David Healy noted that it doesn't make sense to tie the Emergency Broadband Action Plan funding to the RDOF auction because the RDOF money won't be available for a year or more
- Michael Birnbaum suggested block grants to CUDs and a reverse auction format for the rest of the State and noted that the State is targeting completion of the build in three years.
- Fred Goldstein noted that it is tricky to coordinate RDOF funding because RDOF assumes that the winner will be able to get cheap loans that they can then pay off with the RDOF funding once it arrives
- Ken Jones noted that a lot of this is speculative, and that the only real pots of money that are currently out there are the CARES funding for telehealth and schools and the \$1.25 billion in stimulus money the State received. He noted that he expects the State to come out with another emergency plan for a short-term fix and asked if there might be a roll for CUDs to play a part in that.
- Jeremy Hansen suggested the idea of a coalition of CUDs to go after funding together and suggested that the State should fast-track new CUDs
- Michal Birnbaum noted that it would be possible for multiple CUDs to form a consortium to go after RDOF funding
- MOTION (Jeremy Hansen, second Phil Hyjek): to authorize Jeremy Hansen to write a letter (to include the points made above) to comment on the Emergency Broadband Action Plan. No Discussion. Motion passed by unanimous consent.

### **Next Meeting**

- Jeremy Hansen suggested that CVFiber should hold another board meeting on May 26<sup>th</sup> to discuss the Northern Borders Regional Commission grant application
- Michael Birnbaum asked if the board could vote to authorize David Healy to submit the application now and avoid holding another meeting.
- Jeremy Hansen said that this was not a warned agenda item, and that it is a big enough deal that the board should hold another meeting
- Jeremy Hansen suggested pushing approval of the April 28<sup>th</sup>, 2020 Governing Board Meeting Minutes to the May 28<sup>th</sup>, 2020 meeting due to the time.

### **Roundtable:**

- Siobhan Perricone asked how to go about getting access to the internet declared a "public good" and to get internet service providers declared utilities. Fred Goldstein responded that this needs to be done at the Federal level.

### **Meeting Adjourned at 8:23pm**

Respectfully submitted,  
Jeremy Matt, Clerk