

**Southside Network Authority
Summary Minutes
June 11, 2021**

Pursuant to Governor Northam's declaration of the state of emergency in the Commonwealth of Virginia due to COVID-19, and to protect the public health and safety of the Authority's members, staff, and the general public, the June 11, 2021 Southside Network Authority meeting is being held electronically through Webex. This meeting is being recorded and is required to complete essential business on behalf of our region.

Southside Network Authority Voting Members in Attendance:

Susan Vitale, Chair, CH
Andria McClellan, Vice-Chair, NO
Daniel Jones, PO

Albert Moor, SU
Rosemary Wilson, VB

Other Participants:

Steven DeBerry, SNA Executive Director
Robert Crum, HRPDC Executive Director
Regina Chandler, Alternate SU
Fraser Picard, NO
Scott Fairholm, Alternate CH
Andrew Fox, NO
Jay Stroman, CH

Peter Wallace, Alternate VB
Catheryn Whitesell, Alternate NO
Mike Lockaby, Guynn, Waddell, Carroll &
Lockaby, P.C.
Matthew DeHaven, CTC Technology &
Energy

Mr. Robert Crum, HRPDC Executive Director, stated that given Governor Northam's declared state of emergency, due to COVID-19 and the remaining risk, today's Southside Network Authority meeting is being held by electronic communications via Webex. This meeting is being recorded and is required to complete essential business on behalf of our region. Per the requirements of the Code of Virginia, public notice was given contemporaneously with the notice provided to the Southside Network Authority members. The agenda and supporting documentation were made available on the HRPDC website. Members of the public were invited to submit comments in advance of today's meeting via email or phone. Public access to witness the meeting is being provided today via live-stream feed. All votes taken today will be recorded by name in a roll call fashion.

Mr. Crum reviewed a few important housekeeping rules to help the meeting run smoothly:

- Participants were asked to please remain on mute before and after providing any comments to avoid unnecessary background noise and potential feedback.
- All votes taken must be by roll call vote and recorded in the minutes.
- Participants were asked to identify themselves when speaking and/or providing a motion or a second.

Call to Order

Chair Susan Vitale called the June 11, 2021 meeting of the Southside Network Authority to order at 2:04 PM and welcomed everyone to the meeting. Chair Vitale call for a motion for approval or modification of the agenda.

Ms. Andria McClellan Moved to approve the Agenda; seconded by Mr. Al Moor.

Roll Call Vote:

| | |
|---------------|-----|
| Ms. Vitale | Yes |
| Ms. McClellan | Yes |
| Mr. Jones | Yes |
| Mr. Moor | Yes |
| Ms. Wilson | Yes |

The Motion Carried.

Public Comment

No public comments were received.

Approval of the Minutes

Chair Vitale called for a motion to approve the Minutes of the June 11, 2021 meeting.

Ms. Andria McClellan Moved to approve the minutes of the May 14, 2021 SNA meeting; seconded by Ms. Rosemary Wilson.

Roll Call Vote:

| | |
|---------------|-----|
| Ms. Vitale | Yes |
| Ms. McClellan | Yes |
| Mr. Jones | Yes |
| Mr. Moor | Yes |
| Ms. Wilson | Yes |

The Motion Carried.

Status Update on the Near-term Action Items

Executive Director Steven DeBerry introduced Agenda Item 5 which is an update leading to two decisions for the board to approve and will be represented as Agenda Items 6 and 7. The project includes two proposed changes:

- Proposed change in the timeline for Construction and Maintenance Invitation for Bid (IFB) and the addition of an accompanying Financing Request for Procurement (RFP)
- Approve changes to the adopted Fiscal Year 2022 Budget

Projected Timeline for Near-Term Efforts

- Construction and Maintenance Pre-qualification RFP – Review Committee is currently evaluating the nine responses received
- Municipal Financial Advisor RFP – Review Committee is currently evaluating the three responses received
- P3 RFP – Issued May 20, 2021 (responses due August 24, 2021)
- Construction and Maintenance IFB and Financing RFP – Proposed Issue July 8, 2021 instead of currently scheduled August 5, 2021 (responses would be due August 24, 2021 versus September 14, 2021)

Mr. DeBerry noted that later in the meeting he would like to discuss financing avenues and American Rescue Plan Act (ARPA). In the projected timeline, the Authority issued a construction qualification RFP to identify the most qualified candidates for the construction of the fiber projects. This is an initial step to an IFB for construction which was one tier of the dual path strategy. The review team finished the evaluation of the nine responses received and are in the process of putting them into a matrix. This will allow review to deconflict any issues and help with questions for proposed vendors.

The second item is the municipal financial advisor to help the Authority review the IFB for construction and maintenance and the P3. The review committee completed a review of three responses which Mr. DeBerry is reconciling. The P3 RFP was issued on May 20th. Responses are due August 24th as responders were given 90 days. There is one proposed change on the construction of maintenance IFB that goes back to the original date. This RFP was pushed out to August for the process of identifying the ARP funds that would be received and how they might be used or prioritized by cities. That process is ongoing.

During the May 14, 2021 meeting, Mr. Jones asked is if there is a way this particular IFB could be pulled forward for an early start, comparing with the P3. Mr. Lockaby, Mr. DeHaven and Mr. DeBerry looked at the process. They are proposing to simultaneously release the construction IFB and the financing RFP. The purpose is to look for potential partners in the construction side which will help to present a true comparison with the P3. For instance, if the cities are able to provide ARPA dollars, or other dollars, each city may or may not be able to come up with their entire \$5 million fair share. There may be a delta in terms of funding the RFP. There should be a push forward so that a true comparison is done. Mr. DeBerry proposed to release the IFB for construction and maintenance on July 8th instead of August 5th. Responses would be due August 24th which is the same day that the responses are due for the P3. This keeps the project moving in accordance with the dual path strategy. In a two-month window, in late October or early November, there should be enough information to make a decision going forward, whether to build, construct, and fund the fiber ring with a combination of city/regional dollars and ARPA funds, or go P3. There still is a considerable amount of negotiation that would have to occur with any P3 partners.

Ms. Andria McClellan stated a concern that there is nothing related to an RFP for the marketing and management of the fiber ring, and in order to be a true comparison, it appears that should be factored in considering a P3. She questioned if the maintenance piece also includes the marketing piece or if that is separate. Mr. DeBerry responded that until a path is chosen, the marketing and the financing approach is going to be driven by the dual paths.

Ms. McClellan questioned owning the Fiber Ring or having a P3 and having it leased back to us. She questioned if the SNA owned it would we market and manage ourselves or have someone do the marketing and managing for us. Mr. Lockaby stated that the estimates would be procuring during the course of the construction. The construction process is probably 12 to 18 months. There will not be an accurate price right now for what someone would do in 18 months. It would be better to work at getting estimates and quotes rather than doing a formal procurement at this stage. Mr. Lockaby asked if it would that be sufficient to meet Ms. McClellan's concern. Ms. McClellan stated that a Request for Quote (RFQ) for example or RFI would be acceptable. Mr. DeBerry asked Chair Vitale her thoughts and she agreed.

Ms. McClellan asked if Mr. DeHaven had any comments. Mr. DeHaven stated that if we were to own the Fiber Ring, it is recognized that as a body, the SNA is not structured in a way that would actually market it and manage those relationships with other ISPs or other interested parties. Another third party would be brought in to help. The first step in each track is focused on comparing the implementation of options around the network and less around the operations side. There is no guarantee or no set parameters that suggest there would not be some portion of the network set aside in a P3 option for the Authority to operate on its own. Perhaps even lease dark fiber on its own. They are not necessarily mutually exclusive. There may be a need for a marketing contractor. The P3 evaluation is a broad kind of review, it may not get down to a direct cost of ownership analysis. It may be reviewing it from the key terms around ownership and alignment, with overall goals of the Authority, and then moving from there.

Mr. DeBerry stated that there is \$50,000 set aside in the FY2022 budget for marketing and communication. Ms. McClellan stated that the \$50,000 in the FY2022 budget should be different from what will be needed for the marketing and maintenance of the Fiber Ring. Mr. DeBerry asked Mr. DeHaven to clarify if a P3 would do the marketing in terms of building a rate.

Mr. DeHaven stated that it is likely, that the reasons to be seeking a partnership are to potentially reduce costs, share the costs of the overall build out with someone else, and also maximize the opportunities for addressing a number of the strategic goals. If building the ring addresses internal needs of the municipalities, that can be done potentially with either approach. Bringing on a partner then adds the value of having near-term last mile solutions that help provide broadband within the municipalities.

Ms. McClellan asked for more clarification. Mr. DeHaven stated when putting out a maintenance or an operations RFP for the build and operate track that is not necessarily operations in relation to last mile services, it would be ongoing maintenance of the

physical plant and possibly dark fiber leasing and maybe other services on that middle mile ring, but that has yet defined what those services are.

Ms. McClellan clarified that it is the dark fiber leasing that she is referencing. She stated that SNA was presented the different options in terms of cost avoidance. If the SNA did nothing other than use it for municipal services, the payoff is 20 years Return on Investment (ROI); if leased 10 or 12 percent of the dark fiber it is seven to eight years. She asked who is going to do that lease, who is going to pick up marketing and who is going to do that management? In order for a true comparison with a P3 the SNA would need to know what that would look like.

Ms. Rosemary Wilson agreed with Ms. McClellan stating that an RFI would be a good route. Ms. Vitale asked Mr. DeBerry if he would then start working on an RFI and have it ready for August 24th. Mr. DeBerry stated that he needed to get together with the team and see what will be needed for the timeline and whether a meeting next month would be needed.

Revised Timeline for Awarding a Construction and Maintenance Invitation to Bid (IFB)

Mr. DeBerry stated that Agenda Item 6 is for the Board to approve the revised timeline, moving forward with the construction IFB, putting out a financing RFP, and now a marketing/management RFQ.

Chair Vitale called for a motion to approve the provided timeline, the revised provider timeline, and marketing and operating RFQ.

Ms. Wilson Moved to approve the provided timeline, the revised provider timeline, and marketing and operating RFQ; seconded by Mr. Moor.

Roll Call Vote:

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|---------------|-----|
| Ms. Vitale | Yes |
| Ms. McClellan | Yes |
| Mr. Jones | Yes |
| Mr. Moor | Yes |
| Ms. Wilson | Yes |

The Motion Carried.

Revised Fiscal Year 2022 (FY22) Budget

Mr. DeBerry stated the SNA is proposing that the FY2021 retained earnings of approximately \$368,884 be carried forward. This is generated through unobligated FY2021 expenses, primarily from Design and Follow-on Contract actions. These funds could be used for financial advisor services as well as legal and contractor staff support related to reviewing and negotiating on-going contract actions leading to funding, construction, and operation/maintenance of the Regional Fiber Ring.

Mr. Jones asked to give a placeholder budget for the following year knowing that the cities start to look at budgets around the October, November, and December time frame. Mr. Jones stated that we can know what the following year's contribution would look like so it can be programmed. Mr. DeBerry agreed with Mr. Jones stating in that timeline it would be close enough to a decision on the dual path that would drive the budget.

Chair Vitale asked for a motion to the proposed amended FY2022 budget as presented.

Ms. McClellan Moved to approve the proposed amended FY2022 budget as presented; seconded by Mr. Moor.

Roll Call Vote:

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|---------------|-----|
| Ms. Vitale | Yes |
| Ms. McClellan | Yes |
| Mr. Jones | Yes |
| Mr. Moor | Yes |
| Ms. Wilson | Yes |

The Motion Carried.

Old/New Business

Chair Vitale called for any Old or New Business to come before the SNA.

Mr. DeBerry spoke about a legal opinion concerning the use of ARPA funds at the federal level that may or may not align at the state level. Mr. DeBerry ask Mr. Lockaby for his legal opinion on use of ARPA funds.

Mr. Lockaby clarified the ARPA has a provision which says that funds may be used for water, sewer, and broadband and has no further elaboration. The U.S. Department of the Treasury has issued an interim final regulation which is a regulation that is currently the law until it is finalized. Mr. Lockaby concluded that ARPA funds can be used for the regional connectivity ring as it is currently contemplated. It also can be used as part of a contribution to the capital requirement for a P3 type project, if we decided to use those funds in order to have greater flexibility in terms of other trade-offs within that negotiation. Mr. Lockaby stated his conclusion was that it can be used for this project. He had certain suggestions for what might be done in order to make project ideas dovetail even better with ARPA. It is well within the core area of what Congress and the U.S. Department of the Treasury intended ARPA funds to be used for.

Mr. Jones asked if these funds have any type of obligations, meaning if the SNA goes down a certain track could it prevent future services. Mr. Lockaby stated we should have our efforts oriented toward enabling last mile, providing that is one of the criteria that treasury has said is you either need to have a last mile component or you need to be directly oriented towards that. Last mile partners that we could have, such as the cities themselves, such as providing services directly to hospitals, to universities, or to unserved or underserved neighborhoods,

given our orientation toward enabling more lower cost and better last mile service, this falls well within the ARPA scope.

Ms. McClellan asked for a status update on the ad hoc committee formed at the end of the last meeting. It was talked about what the breakup by city would look like in terms of the cost. Mr. DeBerry stated a cost-sharing matrix was developed that needs to be further looked at to share with the Board.

Mr. Crum stated that on a regular basis, there is outreach with the Virginia Economic Development Partnership where they check in with us as a Planning District Commission of what is going on in our region and for them to share with us what viewpoints they have about economic development in Hampton Roads. The VEDP talked about the subsea cables that have come ashore in Virginia Beach, the transatlantic cables and the work to connect the interconnected regional fiber network. They are sharing this at national and international marketing events they attend. The VEDP is taking notice of the leadership of our elected officials around regional initiatives.

Adjournment

With no further business to come before the Southside Network Authority, the meeting adjourned at 2:47 PM.

Respectfully submitted,

Robert A. Crum, Jr.
HRPDC Executive Director
Recording Secretary