

**Southside Network Authority
Summary Minutes
October 14, 2022**

The October 14, 2022 meeting of the Southside Network Authority (SNA) was called to order by Chair Susan Vitale at 2:06 PM. Chair Vitale thanked everyone for their attendance at the meeting and requested Mr. Steven DeBerry, SNA Executive Director, call the roll to determine meeting attendance.

Southside Network Authority Voting Members in Attendance:

Susan Vitale, Chair, Chesapeake	Al Moor, Suffolk
Andria McClellan, Norfolk*	Tonya Chapman, Portsmouth
Rosemary Wilson, Virginia Beach	

Other Participants:

Steven DeBerry, SNA Executive Director	Laura Fitzpatrick, Alternate, Chesapeake
Peter Wallace, Alternate Virginia Beach	Mike Lockaby, Guynn, Waddell, Carroll & Lockaby, PC
Charles Kiriakou, Alternate, Suffolk	
Catheryn Whitesell, Alternate, Norfolk	Matthew DeHaven, CTC Technology & Energy*

Others Recorded Attending:

Jay Krail and Jay Stroman (Chesapeake); Kelsey Swieringa, David Williams and Lavonda Graham-Williams (Portsmouth); Tom Mueller (Suffolk); and Kelli Arledge, Rob Cofield, Matt Klepeisz, Dmitry Rekhter & Chris Vaigneur (HRPDC Staff).

**Indicates participation by electronic means*

Approval of Electronic Meeting Policy

Mr. DeBerry stated a modification of the agenda was necessary in order to allow remote participation by members through electronic means. He directed SNA members' attention to the policy that was provided and described the conditions in which a board member may participate electronically.

Chair Vitale called for a motion to approve the electronic meetings policy. Ms. Wilson Moved to approve the policy as presented; seconded by Ms. Whitesell. The Motion Carried.

Chair Vitale then called for a motion to allow electronic participation by Vice-Chair McClellan. Ms. Wilson Moved to allow Vice-Chair McClellan to join the meeting via electronic means; seconded by Ms. Chapman. The Motion Carried. Vice-Chair McClellan joined the meeting via Microsoft Teams due to a personal matter.

Approval of the Agenda

Chair Vitale called for a motion to approve the agenda for the meeting. Ms. Chapman Moved to approve the agenda; seconded by Ms. Wilson. The Motion Carried.

Public Comments

Chair Vitale invited members of the public to address the Southside Network Authority. There were no public comments.

Submitted Public Comments

There were no submitted comments.

Approval of the Minutes

Chair Vitale called for a motion to approve the minutes of the August 12, 2022 meeting. Mr. Moor Moved to approve the minutes; seconded by Ms. Wilson. The Motion Carried.

Project Management Update

Before beginning his update, Mr. Steven DeBerry, SNA Executive Director, welcomed the SNA's newest voting member, Ms. Tonya Chapman, Portsmouth City Manager.

Mr. DeBerry provided a brief update on the current status of construction of the fiber network. He noted that CTC has completed the final field survey action for the entire 119 miles of the planned route for the fiber. Work continues on completing the final design. Mr. DeBerry and CTC are working with the five localities' right-of-way staffs to obtain the appropriate permits.

The construction contractor, Danella, will begin construction the week of October 17th. The first eight miles of construction will be done in the City of Portsmouth as all of the necessary permits have been issued. Danella will deploy two crews with boring machines and approximately 750 feet of conduit will be bored each day. It is anticipated that it will take about 40 days to complete the Portsmouth work.

Ms. Whitesell inquired if they were encountering any problems in the City of Norfolk with permits. Mr. DeBerry noted they were not. It is expected that the issuance of permits in Norfolk will coincide with the completion of the work in Portsmouth. Mr. DeBerry noted that he believes that after Portsmouth the next 30 miles of work will be done in Norfolk.

Permitting work continues with the City of Virginia Beach, and no permitting problems are anticipated in Chesapeake as most of the work will be completed in a co-build arrangement. Mr. DeBerry noted the City of Suffolk permitting is going well.

Mr. DeBerry stated that he and Mr. Lockaby will be discussing, at a high level, the co-build arrangement with Chesapeake, the in-kind arrangement with Portsmouth and the P3 negotiations in open session, but will go into more detail during the anticipated closed session.

Mr. DeBerry displayed a map illustrating the section of the ring that will be co-built with the City of Chesapeake. He reminded the SNA members that he and Mr. Lockaby felt it would be a cost-effective measure to do this sort of arrangement with Chesapeake. Originally, the 30%

had a circular loop of approximately 12.5 miles that was further south. After the 100% design was complete, Chesapeake redesigned its city fiber ring to coincide with the SNA ring. By reducing the 12-mile circular loop of fiber, the SNA had a cost avoidance to the project of \$763,000. Discussions were held between SNA and the City of Chesapeake to determine how best to leverage the project to the benefit of both the City and the Authority. Instead of the two entities going through the process of permitting, etc. separately, the SNA and Chesapeake are doing a co-build. The SNA will use Chesapeake's contractor for the two sections through the City as their price was better than the Authority's contractor's price. If the SNA had built its ring as originally indicated, it would have been at a cost of \$2.5 million. Through the co-build arrangement, SNA's share in the project will be \$1.7 million – a savings of \$850,000. Mr. Lockaby will be discussing the formal co-build agreement/arrangement between SNA and Chesapeake. It is important for the agreement to be approved today because Chesapeake expects to begin construction November 8, 2022, which is prior to the SNA's next meeting. Approval of the agreement avoids holding-up Chesapeake's process.

Mr. DeBerry noted that while the SNA is saving approximately \$2 million, it is about \$700,000 more than what was budgeted. He reported that the SNA is fine budget-wise for this fiscal year. The SNA's original funding of \$25 million has been invested and is earning about \$50,000 in interest per month. Because of this, Mr. DeBerry expects to lower the \$700,000 gap over the next eight to nine months.

Ms. Wilson asked for clarification as to the location of the original loop. Mr. DeBerry referred to the map and provided the original location as compared to the newly-located route.

Mr. Moor inquired as to when the additional monies that were not budgeted may be needed from the localities. Mr. DeBerry noted that he will have more information by the time he presents his draft budget for fiscal year 2024. He also noted that there may also be other opportunities for cost savings as there are contingencies built into the current contract. Mr. DeBerry noted that \$700,000 is a worst-case scenario, but feels the costs can be mitigated with potential savings in other areas. Mr. Moor noted this was important to know as they, and probably other localities as well, are currently reviewing their Capital Improvement Plans (CIPs). Mr. DeBerry said his biggest concern is that there is an unforeseen change order.

Ms. Whitesell asked if by losing the 12-mile loop, did the SNA lose future business opportunities. Mr. Krail, City of Chesapeake, noted that the SNA loop was originally intended to bring in the City Hall campus. The loop that Chesapeake Connects is building is now going to do that connection. This helps save the SNA costs by taking a more direct route for the fiber.

Ms. Whitesell asked if the City of Chesapeake was building an institutional loop, would it be selling to possible SNA competitors. Chair Vitale noted that Chesapeake will have excess capacity to sell, but how they do that so it does not compete with the SNA needs to be examined. Mr. Krail noted that it will actually provide for more opportunities to connect to the ring because Chesapeake Connects is being constructed in areas that the regional ring is not going. The Chesapeake ring will connect to the SNA ring. Ms. Whitesell inquired that going forward, would there be some sort of revenue-sharing arrangement as it was her understanding that the local rings would not be competing with the SNA ring. Chair Vitale,

for clarification, asked Ms. Whitesell if it was her suggestion that because Chesapeake was doing a co-build construction with the SNA, that Chesapeake should have a revenue-sharing arrangement with SNA. Ms. Whitesell suggested that it is something they should look at in the future.

Mr. DeBerry responded that from a technical standpoint, the co-build will have four, two-inch conduits. Two conduits belong to Chesapeake and two belong to the Authority. The SNA is using Chesapeake's build, but the SNA will own their conduit. Mr. DeBerry said he sees that the SNA will need a maintenance agreement with Chesapeake. Discussion continued around whether commercial revenue opportunities are being missed by the SNA by moving the SNA ring to co-locate with the Chesapeake ring.

Mr. Wallace expressed concern that the SNA had gone to each city during development to discern where their next track would be. Not knowing if this was done in Chesapeake, Mr. Wallace commented the SNA needs to make sure this area was not compromised by moving the ring and future economic opportunities for the SNA are not impacted if similar actions develop in other cities; the SNA needs to ensure they are not competing with themselves.

Mr. Wallace asked for clarification on the potential shortage of the initial \$25 million investment and the possibility that the ongoing operational amount could be increased. Is it the actual \$25 million for the ring that is short or is it the operational contribution going forward? Mr. DeBerry commented that the operational component could be mitigated through the P3 the SNA will be discussing; he was referencing the actual cost of construction.

Mr. DeBerry noted that when the SNA went to the 60% phase of the design, significant changes were made. Chair Vitale pointed out that the Chesapeake co-build is not new information; it has been brought before the Authority since the 60% design. She does not understand the concern as every city's individual ring connects at some point to the SNA ring. Any sort of cost-savings would be something that every SNA city would need to address, not just Chesapeake. The difference in this particular situation is that Chesapeake is building its ring concurrently with the SNA ring and the cost of construction is shared by digging one trench as opposed to digging two separate trenches. Chair Vitale noted any competition or revenue sharing is a topic to be discussed by all SNA localities because each city is going to have its own ring, its own capabilities, and its own opportunities to sell capacity. There will need to be a discussion around this at some point. She reiterated that the Chesapeake build is no different from any other city's ring.

Dr. Kiriakou asked if the two crews digging 750 feet per day is the full production rate or is the contractor going to increase that in the future. Mr. DeBerry replied that once momentum is gained by having multiple permits, Danella has a greater mobilization capability. He sees Danella as increasing the amount per day as the backlog in permitting is erased.

Mr. DeBerry turned the discussion to Portsmouth's in-kind contribution. While the co-build with Chesapeake is more of a cost-avoidance/cost savings, Portsmouth offers an opportunity because the city has built its own institutional fiber ring. Mr. DeBerry displayed a map illustrating the area to which he was referencing – approximately 7,000 feet that crosses the West Norfolk Bridge. Portsmouth had previously built approximately 1.4 miles of conduit along VDOT's right-of-way on the bridge. This entailed substantial build cost and permitting

challenges with VDOT. The City is agreeable to leasing spare conduit to the Authority at a fair and reasonable price. This provides an opportunity to save the Authority approximately \$1.3 million which can help offset the cost on the Chesapeake co-build. This brings into the conversation how the Authority compensates Portsmouth for its share. Mr. DeBerry noted that in the SNA's contract, that section cost approximately \$2.5-\$2.6 million, while in Portsmouth's contract, it cost \$1.3 million to build. This opportunity with Portsmouth will save money for both the Authority and the City.

Mr. Wallace asked if it was proposed to put conduit on both sides of the Bridge. Mr. DeBerry replied affirmatively and provided a detailed description of the process.

Ms. Whitesell inquired if it was the Authority's intent to do a 50/50 cost share with Portsmouth. Mr. DeBerry replied affirmatively.

Grant Opportunity: National Telecommunications and Information Administration (NTIA), U.S. Department of Commerce

Mr. DeBerry reminded SNA members of the National Telecommunications and Information Administration (NTIA) grant opportunity for the Middle Mile Broadband Infrastructure Grant (MMG) program. The MMG program will provide \$1 billion nationwide in middle-mile broadband grant funding. The Cities of Hampton and Newport News developed and submitted an application that would build the first phase of a fiber ring for the Peninsula connecting Hampton and Newport News as well connecting the Southside and Peninsula via the Hampton Roads Bridge Tunnel and the Monitor Merrimac Memorial Bridge Tunnel. Applications were submitted before the September 30, 2022 deadline. The current grant schedule calls for the announcement of grant recipients around February 16, 2023, with a grant start date of March 1, 2023 (or later).

This particular grant was for \$37 million and requires in-kind contributions - \$22 million in grant funding and the two cities committed to \$15 million. If this grant is awarded, the Authority will move into Phase 3 of the Regional Fiber Ring. An important part of this grant submission was the Hampton Roads Bridge Tunnel (HRBT) and Monitor-Merrimac Memorial Bridge Tunnel (MMMBT) crossings, which is a significant cost that the Authority would have to fund when it moves to bring the Peninsula localities into the Regional Ring. The grant, if awarded, would pay for this crossing. Mr. DeBerry expressed his appreciation for the work of CTC on the grant submission.

Chesapeake Co-Build Agreement

Mr. Lockaby reported that he had been working closely with Mr. Jay Stroman, Chesapeake's City Attorney, to draft the co-build agreement between the SNA and the City of Chesapeake. This agreement sets the expectations of program management for the co-build. As previously mentioned, by using a single contractor and a single build, both the Authority and the City stand to realize significant savings. The Agreement states that the City will carry out the build using their contractor instead of the Authority's contractor and will be reimbursed half of the costs in arrears. Design of the build is complete. Construction is expected to begin in early November, and Authority staff and its A/E consultant will be involved in the build oversight.

Mr. Lockaby outlined the remaining parameters of the Co-Build Agreement between the Authority and the City of Chesapeake. In order to move forward with the arrangement, there must be a signed agreement in place, which is before the Authority for their approval. Discussion ensued surrounding cost-avoidance amounts and maintenance.

Chair Vitale called for motion to approve the co-build agreement. Mr. Moor Moved to approve the Co-Build Agreement between the SNA and the City of Chesapeake; seconded by Vice-Chair McClellan.

Roll Call Vote:

Ms. Vitale:	Yes
Ms. McClellan	Yes
Ms. Chapman	Yes
Mr. Moor	Yes
Ms. Wilson	Yes

The Motion Carried.

Portsmouth In-Kind Contribution

Mr. Lockaby stated that the Portsmouth In-kind Contribution is similar to what the Authority will be doing with the Chesapeake co-build, but it is more complicated because the City of Portsmouth has already built its ring. He noted the arrangement would be of benefit to the SNA because it will be able to reuse some of the infrastructure. As mentioned earlier in the meeting, the City of Portsmouth has approximately 1.4 miles of existing conduit on the West Norfolk Bridge for which the City would lease the Authority a portion. This arrangement saves the Authority about \$1.3 million in construction costs and about one year in the permitting process with VDOT. In the Project Participation Agreement, there was a methodology set out for instances where there would be an arrangement such as this.

Portsmouth has offered two proposals on how the Authority would pay the City:

1. "Pay Now"
 - Cash payment
 - Credit against future equity call under the Project Participation Agreement – want a limit set in terms of the number of years in the future
2. "Pay Later"
 - Cash payment within one year after completion of construction – puts more risk onto the SNA
 - Treat as an amortized loan at 3% over 20 years
 - Treat as an unamortized loan at 3% over a shorter number of years

For illustrative purposes, Mr. Lockaby provided examples of payments using an amortized loan over 20 years and an unamortized loan over a period of five (5) and 10 years. As expected, the amortized loan option has high interest costs with a low annual payment.

Mr. Lockaby stated he is not looking for approval at this meeting. He is looking for direction from the Authority as to the direction in which they would like to proceed.

Ms. Whitesell inquired why the SNA would not want to make the lump sum cash payment. Mr. Lockaby replied that is because the Authority does not currently have \$1.3 million; Mr. DeBerry concurred. Ms. Whitesell continued noting that the five SNA localities each provided \$5 million to build the ring; if this is a strategy to save money, why can the SNA not pay Portsmouth the cash up front? Significant discussion continued on the repayment options. There was a question as to whether this segment was included in Danella's original \$24.6 million bid. Mr. DeHaven confirmed that it was. The main concern regarding a cash payment to Portsmouth was preserving sufficient funds for contingencies moving forward.

Vice-Chair McClellan inquired as to the amount of interest on an amortized loan. Ms. Whitesell outlined the following:

- Interest on an amortized loan: ~ \$450,000
- Interest on an unamortized loan for 5 years at 3%: ~ \$117,000
- Interest on an unamortized loan for 10 years at 3%: ~ \$216,000

Mr. Lockaby reiterated that while he was not looking for approval today on the arrangement, he is looking for direction so that he may begin working with the City of Portsmouth to bring a draft agreement back to the Authority for approval in December.

Ms. Chapman asked for clarification on the information presented that the SNA has some savings, and based on those savings, the SNA wishes to use the monies for the Chesapeake co-build instead of paying Portsmouth in full up front. Mr. DeBerry stated that he would like to leverage the savings to complete the Chesapeake portion of the SNA fiber ring.

Chair Vitale noted the issue at hand was deciding whether the SNA would pay the City of Portsmouth \$1.3 million in a lump sum or would reimburse the City on a repayment plan over a predetermined period of time, thereby incurring some interest. The latter option would allow the SNA to retain some cashflow in case of unexpected expenses during construction. With a potential P3 arrangement with GTS, the SNA may have approximately \$2 million in base revenue the first year which could potentially allow the Authority to repay the City in a lump sum payment.

Vice-Chair McClellan asked about any prepayment penalty if the SNA paid the loan off earlier than anticipated. Mr. Lockaby indicated that he did not foresee any prepayment penalty in the agreement with Portsmouth. While understanding the desire to keep funds for contingencies, Ms. Wilson voice her opposition to amortizing a loan; her preference is to repay Portsmouth as quickly as possible.

Discussion continued regarding the repayment options presented. It was suggested that the Authority may want to revisit the topic later in the meeting as there is additional information that may help impact the Authority's decision as to how it wishes to proceed.

Update on Detail Phase of PPEA Negotiations with Global Technical Systems (GTS)

Mr. DeBerry reported that he and Mr. Lockaby continue negotiations with Global Technical Systems (GTS) and its consortium partner Smart City Capital (SCC). Mr. Lockaby reported they are currently in the Detail Phase. The next phase is the Interim Phase which will be the time to determine contingencies, negotiate the finer points of the agreement and draft the governing documents for the long term.

Mr. Lockaby noted several important deal points for both the Authority and GTS. He also described the Interim Agreement Phase whereby public hearings will be scheduled and non-confidential portions of the Interim Agreement will be made public. The public will be invited to an Authority meeting to provide comments. Mr. Lockaby stated that following the public hearing, the Authority would need to wait 30 days to approve and sign the Agreement. In order to allow the timing of all events to work, he suggested moving the regularly scheduled December meeting date to another date. Additional information would be shared with the Authority during the upcoming closed session.

Closed Session

Chair Vitale called for a closed session and asked Mr. Lockaby to provide the language for the motion. Mr. Lockaby noted there were two motions to be read – one for item #9 to discuss the Portsmouth In-kind Arrangement; and one for item #10 to discuss the possible agreement with GTS.

Motion for Agenda Item #9:

Motion to convene a closed session pursuant to subsection A.6 of § 2.2-3711 of the Code of Virginia, 1950, as amended, for the purpose of discussion or consideration of the investment of public funds where competition or bargaining is involved, where, if made public initially, the financial interests of the Authority would be adversely affected, and subsection A.29 of § 2.2-3711 for the purpose of discussion of the award of a public contract involving the expenditure of public funds, including the terms or scope of such contract, where discussion in open session would adversely affect the bargaining position or negotiating strategy of the Authority, relating to an agreement relating to Authority compensation to Portsmouth for in-kind contributions to construction of the Regional Connectivity Ring.

Motion for Agenda Item #10:

Motion to convene a closed session pursuant to subsection A.28 of § 2.2-3711 of the Code of Virginia, 1950, as amended, for the purpose of discussion or consideration of information subject to the exclusion in subdivision 11 of § 2.2-3705.6 by a responsible public entity; pursuant to subsection A.33 of § 2.2-3711 for the purpose of discussion or consideration by a local authority created in accordance with the Virginia Wireless Service Authorities Act (§ 15.2-5431.1 et seq.) of confidential proprietary information and trade secrets subject to the exclusion in subdivision 19 of § 2.2-3705.6; pursuant to subsection A.29 of § 2.2-3711 for the purpose of discussion of the award of a public contracting involving the expenditure of public funds, and discussion of the terms or

scope of such contract, where discussion in open session would adversely affect the bargaining position or negotiating strategy of the public body; and pursuant to subsection A.6 of § 2.2-3711 for the purpose of discussion or consideration of the investment of public funds where competition or bargaining is involved, where, if made public initially, the financial interest of the governmental unit would be adversely affected, all related to discussion of the terms and conditions of the Interim Agreement and possible Comprehensive Agreement with GTS.

Chair Vitale asked that the closed session also include the SNA localities' legal counsel representatives, Mr. DeBerry, Mr. Lockaby, Mr. DeHaven, SNA Alternates and Chief Information Officers.

Ms. Wilson Moved to proceed into closed session; seconded by Ms. Chapman. The Motion Carried.

The Authority proceeded into closed session.

Return to Open Session

The Authority reconvened into open session. Mr. Lockaby read the following motion into the record:

Move to reconvene in open session and to certify by roll call vote, pursuant to subsection D of § 2.2-3712 of the Code of Virginia, that (i) only public business matters lawfully exempted from the open meeting requirements of the Freedom of Information Act and (ii) only such public business matters as were identified in the motion by which the closed session was convened were heard, discussed, or considered in the closed session.

Ms. Wilson Moved to certify that only public business matters lawfully exempted from open meeting requirements as identified in the motion were heard, discussed or considered in the closed session; seconded by Mr. Moor.

Roll Call Vote:

Ms. Vitale	Yes
Ms. McClellan	Yes
Ms. Chapman	Yes
Mr. Moor	Yes
Ms. Wilson	Yes

The Motion Carried.

Old/New Business

Chair Vitale recognized Ms. Wilson. Ms. Wilson Moved to amend the previous motion on the Chesapeake Co-build Agreement to provide that it be executed and delivered upon the identification of funds; seconded by Mr. Moor. Chair Vitale called for a roll call vote.

Roll Call Vote:

Ms. Vitale	Yes
Ms. McClellan	Yes
Ms. Chapman	Yes
Mr. Moor	Yes
Ms. Wilson	Yes

The Motion Carried.

Chair Vitale requested that the SNA be polled for an alternate meeting date in November as the regularly scheduled meeting on November 11th falls on Veteran's Day.

Adjournment

With no further business to come before the Southside Network Authority, the meeting adjourned at 4:24 PM.