

APPROVED 9/2/21

**MINUTES
ORANGE COUNTY
BOARD OF COMMISSIONERS
VIRTUAL SPECIAL MEETING
June 28, 2021
7:00 p.m.**

The Orange County Board of Commissioners met for a Virtual Special Meeting on Monday, June 28, 2021 at 7:00 p.m.

COUNTY COMMISSIONERS PRESENT: Chair Renee Price, Vice Chair Jamezetta Bedford, and Commissioners Mark Dorosin, Amy Fowler, Sally Greene, Jean Hamilton, and Earl McKee

COUNTY COMMISSIONERS ABSENT:

COUNTY ATTORNEYS PRESENT: John Roberts

COUNTY STAFF PRESENT: County Manager Bonnie Hammersley, Deputy County Manager Travis Myren, and Clerk to the Board Laura Jensen. (All other staff members will be identified appropriately below)

Chair Price called the meeting to order at 7:04 p.m.

A roll call was called; all members were present except for Commissioner McKee.

Due to current public health concerns, the Board of Commissioners is conducting a Virtual Special Meeting on June 28, 2021 utilizing Zoom. Members of the Board of Commissioners will be participating in the meeting remotely. As in prior meetings, members of the public will be able to view and listen to the meeting via live streaming video at orangecountync.gov/967/Meeting-Videos and on Orange County Gov-TV on channels 1301 or 97.6 (Spectrum Cable).

1. Orange County Broadband Task Force Update Funding Decisions on the Operating Budget Amendment List

The Board received an update regarding the status of the Orange County Broadband Task Force. The update explained the process of Task Force meetings and where the Task Force is to date in relation to having meetings with potential vendors and to discuss the goal of issuing a request for proposals (RFP) to find a partner willing to implement the “future proof” fiber network that meets the requirements for the \$5,000,000 in American Rescue Plan Act funds that were allocated in the FY21-22 Budget.

BACKGROUND:

On March 3, 2021 the first Task Force meeting was held. There have been nine meetings to date occurring every other Wednesday at 5:30 PM. These virtual meetings are publicly advertised and the some members of the public beyond the committee members have been present at all meetings. Approved minutes from each of the meetings and recordings can be found on the County website. <http://orangecountync.gov/broadband>.

At the September 1, 2020 Board of Orange County Commissioners Business meeting, a petition was submitted by Commissioner Earl McKee to create an Orange County Broadband Task Force.

The Board subsequently discussed the proposal further at its November 17, 2020 Business meeting, including the composition of the Task Force and following charge:

The Task Force charge will include but not necessarily be limited to:

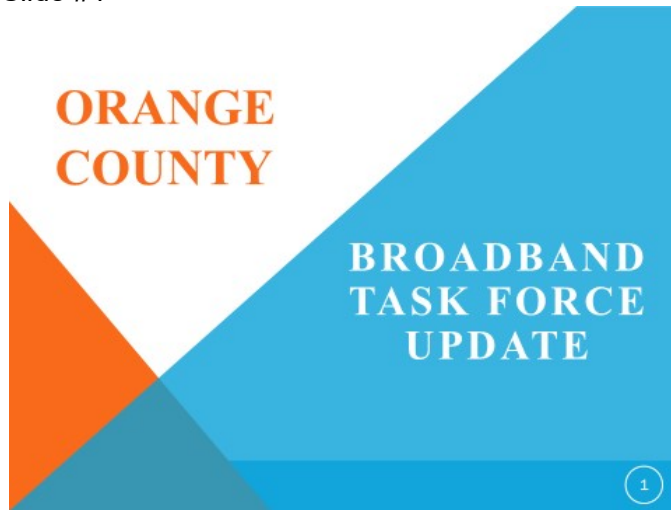
1. Discuss broadband solutions that will improve the quality of high speed internet services to Orange County residents;
2. Recommend a plan to the Board of Orange County Commissioners that will expand reliable high-speed internet services to all county residents and businesses.

On February 2, 2021 the Board appointed residents to this Task Force and asked the State Broadband Infrastructure Office, Chapel Hill Carrboro City Schools, Orange County Schools and Durham Technical Community College to send representatives to participate as well. The Broadband Task Force members are as follows:

Special Representation	Appointee
County Manager (Designee)	Travis Myren, Deputy County Manager
Chapel Hill Carrboro City Schools Superintendent (Designee)	Doug Noell, Chief IT Operations Officer, Chapel Hill-Carrboro City Schools
Orange County Schools Superintendent (Designee)	Dr. Monique Felder, Superintendent Dr. Kathleen Dawson, Deputy Superintendent
NC Department of Information Technology (NCDIT) Representative	Jeff Sural, Director, NC Broadband Infrastructure Office (NC BIO)
Durham Technical Community College Representative	Victoria P. Deaton, Compliance Specialist, Office of Institutional Equity and Inclusion
Board of Commissioners - 1	Commissioner Earl McKee
Board of Commissioners – 2	Commissioner Sally Greene
Orange County Resident – At Large	Vasu Kilaru, Orange County Resident
Orange County Resident – At Large	Paul Cardillo, Orange County Resident
Orange County Resident – At Large	Todd Broucksou, Orange County Resident
Orange County Resident – At Large	Patricia Hull, Orange County Resident
Orange County Resident – At Large	Terri Buckner, Orange County Resident

Jim Northrup, Chief Information Officer, introduced the item and consultant Catharine Rice, who is working with Orange County on broadband Internet options. He made the following PowerPoint presentation:

Slide #1



Slide #2

ORANGE COUNTY BROADBAND TASK FORCE

- Task Force Charge
 - Discuss broadband solutions that will improve the quality of high speed internet services to Orange County residents;
 - Recommend a plan to the Board of Orange County Commissioners that will expand reliable high-speed internet services to all county residents and businesses.
- \$5,000,000.00 American Rescue Plan Act budgeted funds FY22
- 9 meetings to date



Slide #3

UNSERVED AND UNDERSERVED RESIDENTS

- Approximately 5,200 homes
- 250 Homes served by Open Broadband
- Rural Digital Opportunity Fund award (RDOF) 1.776?



Jim Northrup said the gray area on the map above shows where residents are only served by a single landline Internet provider. He said two providers received awards from the Rural Digital Opportunity Fund (RDOF) to expand Internet access, and 1,776 homes in Orange County could receive high speed Internet thanks to RDOF. He said Spectrum has six years to complete building the infrastructure. He said work has not yet started, but these 1,776 homes are part of the 5,200 homes within the County that lack access to broadband service.

Catharine Rice continued the PowerPoint presentation:

Slide #4

ORANGE COUNTY BROADBAND TASK FORCE

- American Rescue Plan Act
 - 100/100 Future proof network
- Vendor Meeting
- RFP



Commissioner McKee joined the meeting at 7:12 p.m.

Catharine Rice said Orange County has been working on expanding Internet access for a long time, and she began working with the county in 2004. She said Orange County is ahead of the game in planning.

Catharine Rice said the US Treasury department has expanded the list of projects for which the American Rescue Plan Act (ARPA) funds can be used. She said broadband is one of those eligible items. She said eligible broadband infrastructure projects are expected to be designed to a minimum of 100 megabit per second downstream and upstream, respectively. She said the guidelines encourage prioritization investments in fiber optic infrastructure. She said if entities find that they cannot build at 100 megabit upstream and downstream, they can build at 100 megabit downstream and 20 megabit upstream, but the infrastructure must be scalable up to 100 megabit upstream and downstream. She said eligible projects should focus on unserved and under-served areas, and in doing so, will be allowed to serve the already served with that same network.

Catharine Rice said the US Treasury encouraged projects that are owned by or affiliated with local governments and non-profits, because these providers will not be motivated by profit and have a commitment to serve the community.

Catharine Rice said the task force used the guidelines and information from the US Treasury to focus on the types of projects it wanted to prioritize. She said the task force will have a vendor meeting in mid-July 2021 to gather applicant feedback, and will issue an RFP with the same technical requirements.

Slide #5

Questions



Commissioner Greene thanked Jim Northrup and Catharine Rice for the presentation, and asked if they could talk about next steps. She said Catharine Rice reminded the Board that ARPA money can only be used on a fiber solution. She said the shorter-term, wireless, projects will be a second conversation after the RFP is out.

Jim Northrup said there are a lot of options on the table. He said during the last two task force meetings the group moved towards addressing long term goals. He said the committee felt urgency to design an RFP around ARPA requirements. He said they would revisit the short-term solution, once the RFP is completed.

Catharine Rice said the funding source helped to clear the view. She said if the network is providing less than 100 by 20, ARPA funds cannot be used. She said the task force decided to pause on the short term, and get the long-term project going.

Commissioner McKee said the last meeting helped him understand that the short-term solution could not be funded with ARPA funds, and he looks forward to talking about the wireless option in the fall. He said State funding may be a possible option to fund wireless. He said the task force needed to look at long-term solutions, and \$5 million is good seed money.

Commissioner Hamilton asked if “building to unserved and the served” could be clarified. She asked if that means building out to customers in Chapel Hill where they are already served.

Catharine Rice said the Treasury guidelines say that as long as you are building out to the unserved you can also build out to the served. She said the taskforce is focused on the 5000 homes that are the most underserved right now.

Commissioner Hamilton asked if the estimated costs for serving the 5200 homes could be identified.

Jim Northrup said a realistic cost from Time Warner is \$2,000. He said the RiverStreet, company, who is partnering with Piedmont Electric, said \$5,000 per pass. He said \$5,000 times 5,000 is \$25 million. He said this is just an estimate, and the RFP will provide the most accurate answer to that question.

Commissioner McKee said the further out one goes into a rural area, the more it is going to cost per unit serve. He said sometimes you have to go by someone who is already served in order to get to someone who is unserved. He said it is hard to know how much it will cost.

Commissioner Fowler asked if there is a plan to fund the remaining amount. She asked if state or federal funds may play a part, and would this information affect the RFP.

Commissioner McKee said the County has to move forward, because there is a time frame for obligating the money.

Jim Northrup said the federal government offered the RDOF money as an incentive, and the Time Warner is funding the rest of the cost. He said the \$5 million from Orange County could be seed money for vendors to build out the full infrastructure.

Commissioner Fowler asked if the County pursued the Time Warner method, who would own the ISP.

Jim Northrup said that is to be decided.

Bonnie Hammersley said the question of who will own the fiber is part of tonight's discussion, in order to move forward with the RFP.

Commissioner McKee said that question would be discussed during the closed session.

Commissioner Greene said the RFP is not an award of a contract, but rather is an invitation to negotiate, and it will depend on how much the vendor wants to put into it. She said there are a lot of unknowns, but this is a good start.

Commissioner Hamilton asked if there would be a cost to the homeowner.

Jim Northrup said it would be the same market price to homeowners in urban and rural areas. He said there will be no surcharge for rural customers.

Commissioner Hamilton said there are limits to service in rural areas because homeowners do not sign up due to the cost or larger elderly populations. She said she wants to get an idea of the full picture for the project.

Commissioner Dorosin asked if clarification on the RFP process could be provided.

Commissioner Greene said the RFP is to ask if vendors are interested or not; if they are interested in cost sharing. She said it is not an either/or thing. She said the County will share its need, and see who is interested in partnering, and how they would like to see it done.

Commissioner McKee said aspects of state law limit the County. He said the County cannot own it in the way OWASA operates. He said the task force needs to find out what providers will be interested in doing, and at what cost. He said there may be no interest at all, which is equally pertinent information.

Commissioner Dorosin asked if the County is asking vendors to pay for specific things. He said if the County were to build and pay for the infrastructure would it not be wise to invite all providers to come in and create some competition. He said he does not want proposals for a monopoly.

Commissioner McKee agreed, and said he hoped he had not given that impression.

Commissioner Dorosin said Commissioner McKee had not, and it seemed very open-ended. He said he would also not be in favor of giving away the infrastructure, as it excludes others. He said this is not really a RFP, but rather an invitation to collaborate.

Commissioner McKee said one of the reasons of having a provider meeting is to find out what they want, and what they want from the County. He said despite having multiple task force meetings, he still does not know all of the questions or parameters to put on. He said State law may not allow the County to put limits on the costs to homeowners. He said despite all the unknowns, the County has to move forward with getting service to homeowners.

Commissioner Greene asked about the RDOF Funds that Spectrum received, and asked if there is a realistic timeframe for Spectrum to start work.

Catharine Rice said the FCC is going to determine who gets the funds next year. She said Spectrum is only getting \$1.33 per home, per month, for 10 years, which is not a lot of subsidy. She said Spectrum is probably not feeling much incentive to build in Orange County. She said Spectrum has to build out 40% in the first three years, and the whole state in 6 years. She said there will be penalties if this is not completed, but the timeline is not definite.

Commissioner Dorosin left the meeting at 7:44 p.m. and returned at 7:45 p.m.

Commissioner Greene asked if this will impact any other potential Orange County partners. She asked if Orange County has to stay out of Spectrum's way.

Catharine Rice said competition is the best market force to drive costs down, improve customer service, and improve the quality of innovation. She said this is the best chance for

local governments to get a competitive provider. She said this is a chance of a lifetime, and the funds and a cooperative federal government will never come again. She said there are already companies interested in partnering, and she would not hesitate to overbuild the RDOF areas. She said nothing will get Spectrum moving like competition in their territory.

Chair Price asked if the task force had spoken with churches or the community to see if they are interested in participating.

Commissioner McKee said no, and personally, he did not consider that the first step, because he did not want to go to the community without having a plan to share. He said he would like to know what the County is proposing before going to the community.

Chair Price asked if Commission McKee has heard anything from the community as to interest in broadband.

Commissioner McKee said there will be an event at Cedar Grove Community Center on July 24, 2021 to promote broadband. He said many people have expressed general support to him, but he would not expect 100% participation.

Chair Price said she did not expect 100% participation, but she would like to know if running the infrastructure in rural areas would be worthwhile.

Commissioner McKee said if the County does not have any interested providers, it does not have anything to offer the community.

Chair Price asked if there is an update about state funding.

Catharine Rice said the Governor made recommendations to the legislature. She said the timeline is unknown, as well as under what terms the money will be available. She said this is why it is important to keep moving forward with the current process.

Jim Northrup said one recommendation of the Growing Rural Economies with Access to Technology (GREAT) Grant is to remove the tier-system and use census blocks with less than 500 people per square mile. He said this would cover most of Orange County, with exception of the incorporated municipalities.

Commissioner Bedford asked if a vendor returned the RDOF monies if there are penalties.

Catharine Rice said if Spectrum defaults prior to funds being issued, the penalty is 15% of the total award. She said the penalties become more severe if defaults continue to occur.

Commissioner Hamilton asked if the County owns the infrastructure, what will it cost to maintain it. She said it would be helpful to see the costs and the benefits, in order to best steward the County's resources.

Commissioner Greene asked if the County had a fiber network that it had built, could the County lease it to more than one ISP at a time.

Catharine Rice said that practice is called Open Access, and is not common here, but is common in Europe. She said it is just starting to take off here. She provided two examples, one of which resulted in a low-cost to consumers. She said the economics are tough on open access, but the County could try it. She said the County could build the network and lease it whomever it chooses. She said Fiber has infinite capacity, which is why the federal government is pushing for it.

Commissioner McKee said the exact infrastructure and maintenance costs cannot be shared because the task force wanted to get feedback from the Board of County Commissioners before moving forward. He said the goal is to make the best use of time. He said the cost of maintaining will be considered before entering into any project, but there is no doubt the costs will be high.

CLOSED SESSION

A motion was made by Commissioner McKee and seconded by Commissioner Fowler to enter into closed session at 8:04 p.m. pursuant to G.S. § 143-318.11(a)(3) "to consult with an attorney retained by the Board in order to preserve the attorney-client privilege between the attorney and the Board" and pursuant to G.S. § 143-318.11(a)(4) "to discuss matters relating to the location or expansion of industries or other businesses in the area served by the public body, including agreement on a tentative list of economic development incentives that may be offered by the public body in negotiations, or to discuss matters relating to military installation closure or realignment."

Roll call ensued

VOTE: UNANMIOUS

A motion was made by Commissioner Fowler, seconded by Commissioner Hamilton, to reconvene into regular session at 9:54 p.m.

Roll call ensued

VOTE: UNANMIOUS

A motion was made by Commissioner McKee, seconded by Commissioner Bedford, to adjourn the meeting at 9:54 p.m.

Roll call ensued

VOTE: UNANMIOUS

Renee Price, Chair

Laura Jensen
Clerk to the Board

Submitted for approval by Laura Jensen, Clerk to the Board.