

TOWN OF BRATTLEBORO

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October 9, 2019

Memo To: Brattleboro Selectboard
Memo Via: Peter B. Elwell, Town Manager
Memo From: Patrick Moreland, Assistant Town Manager
Re: Municipal Internet Service

At the conclusion of our discussion of municipal internet service on October 1, 2019, the Selectboard asked staff to return with some options for next steps. Presented below is a range of overlapping actions the Town of Brattleboro may take with escalating levels of commitment to immediate action. First, staff submits a series of questions designed to identify the potential motivating factors in choosing how best to proceed.

What is our Goal?

- **Preserving Net Neutrality?** – This is a primary goal of most municipal internet services, but there may be other ways of re-establishing net neutrality. A recent US Court of Appeals ruling made clear that the FCC may have erred when it declared that states cannot pass their own net neutrality legislation. The FCC has been asked to produce additional evidence to the court for its consideration, meaning that a potential state by state legislative fix for net neutrality remains a possible but uncertain outcome.
- **Do we want to see equal access to a high quality standard to every location in town?** One advantage of a municipally owned internet service, if it is funded with general obligation bond proceeds, such as the Leverett model, is that a town-wide network can be built all at once and offer the same level of service to every home and business. For Brattleboro, this type of equity will likely require a centrally developed municipal network funded with general obligation bonds. Municipal internet service networks which must rely on revenue bonds are not always able to achieve this level of equity. Development by revenue bond requires sufficient demonstration of market demand, often on a neighborhood-by-neighborhood or even street-by-street basis. As a result, some neighborhoods may enjoy the service, even as adjacent neighborhoods do not.
- **Do we wish to improve service in the “urban compact”?** Equitable access to high quality services can lead to sprawl development and work against the goal of more compact urban development. Certainly the center of town, including the downtown, is where most citizens and businesses reside, but does that make it the ideal area in which to focus?

- **Are we trying to lower the monthly service charge for internet service to make it more affordable, especially for low income households?** In some examples, such as with the Leverett model, high quality services are delivered at a tremendous bargain when compared with standard private sector offerings. This is because the cost of the capital investment is borne directly by property tax payers and only indirectly by renters. The degree to which landlords account for the additional property taxes when setting their rents will vary.

Where do we go from here?

1. **Continue to participate in regional discussions of a Communications Union District (CUD)** – During the discussion on October 1, staff described how our continued participation in the exploration of a CUD has no downside other than staff time to attend meetings. Should a project come out of these discussions it will almost certainly benefit surrounding towns before Brattleboro sees any direct benefit, but our participation can insure that Brattleboro's interests are represented in the resulting CUD. We could, for example, participate as long as we can insure that expenses are only shared from member communities that enjoy the services provided. Maintaining our interests in this regional solution may come to benefit Brattleboro in a manner in which we cannot predict today. Having our position on this regional effort may someday allow us to expedite some future project from which Brattleboro residents/businesses benefit. Staff recommends action #1 without reservation.
2. **Lobby for the use of General Obligation Bonding (& #1)** - Recent legislation in Montpelier requires the Secretary of Administration, the State Treasurer and the Executive Director for the Vermont Municipal Bond Bank to investigate the use of general obligation bonds for the purpose of building municipally owned communications plant, and they are to report their findings back to the House Committee on Energy and Technology and the Senate Finance Committee no later than December 1, 2019. If the Selectboard wanted to take steps to expand the financing options for Brattleboro and every other Vermont municipality, the Town could express this to these individuals and these legislative committees.
3. **Fund a feasibility study to establish a municipal internet service provider using general obligation bonding (& #1 & #2)**. Once the possibility of using general obligation bond proceeds for communications plant has been established in Vermont, the Board could authorize an expenditure for a feasibility study. A consulting firm would be engaged to develop a conceptual network design, evaluate different legal constructs (Leverettnet for example is a wholly owned subsidiary corporation to the municipality of Leverett, with its own governing board), and secure future pricing for backhaul services. Staff can evaluate this option more closely as we proceed, but a preliminary budget estimate for this work would be \$60,000. State grant funds are an exceedingly unlikely source of

support. If the Board wished to pursue this action, staff could be directed to add this sum into the FY21 capital budget.

4. **Fund a feasibility study to establish a municipal internet service using revenue bonds (& #1)** – The Town could continue to participate in a regional exploration of a CUD in parallel with an independent effort to establish a Brattleboro only municipal network that makes use of revenue bonds. As noted on October 1, a project using revenue bonds is fundamentally more complicated than a project that is able to utilize general obligation bonds. If a community wants a municipal fiber network, one that serves each resident and business equally, and that community is willing and legally able to call a general obligation bond vote for that purpose, then only a positive vote from Representative Town Meeting would be required to borrow the money to move ahead. This makes the feasibility study easier as well because the community need not establish market demand for the service since the implications of the successful bond vote speak for themselves. However any scenario that requires a revenue bond means that our feasibility study must be prepared to demonstrate a viable business with positive cash flows along with sufficient market demand for the new service, all of which must be persuasive to investors who may have never heard of Brattleboro and care little about our desire for greater equity of service and net neutrality. If we were to pursue a feasibility study for a project based on revenue bonds, we should expect to pay approximately \$80,000 for this more complicated business planning exercise and we should expect that the study would recommend a project scope that falls short of equal service to every property in town. If the Selectboard wants to proceed with a revenue bond feasibility study, staff would recommend placing \$80,000 in the FY21 capital budget.

5. **Fund a feasibility study to establish a municipal internet service using revenue bonds (& #1)** - Essentially Action #5 is the same as action #4, but instead of planning for this expense through the budget process and securing authorization from Representative Town Meeting, the Selectboard could fund the feasibility study today to be charged against the current FY20 general fund budget. Staff does not recommend this option. We have listed it here only to identify the range of possible Selectboard actions from most cautious (#1) to most bold (#5). An \$80,000 unbudgeted expenditure would be risky in any year and it would be especially risky in FY20 when we already have committed \$65,000 of unbudgeted funds to the Work Today program.