

County of Dinwiddie

BROADBAND AUTHORITY

WILLIAM D. CHAVIS
DANIEL D. LEE
BRENDA EBRON-BONNER
CASEY M. DOOLEY
DR. MARK E. MOORE



FOUNDED 1752

EXECUTIVE DIRECTOR

W. KEVIN MASSENGILL

June 18, 2024

Reorganizational & Special Meeting- 8:00 PM

1. CALL TO ORDER AND ROLL CALL

2. AMENDMENTS TO AGENDA

3. APPROVAL OF MINUTES

Documents:

[7-19-22 Special Broadband Meeting Minutes.pdf](#)

4. ORGANIZATIONAL ITEMS:

A. Chair Nominations & Appointment

Documents:

[Resolution- Chair.pdf](#)

B. Treasurer Nominations & Appointment

Documents:

[Resolution- Treasurer.pdf](#)

C. Secretary Nominations & Appointment

Documents:

[Resolution- Secretary.pdf](#)

D. Executive Director Nominations & Appointment

Documents:

[Resolution- Executive Director.pdf](#)

5. ACTION ITEMS:

A. Release And Agreement To Terminate Broadband Agreements In Light Of Transfer Of 2022 VATI Grant To Western Piedmont Planning District Commission

Tyler Southall, County Attorney

Documents:

[Broadband Memo.pdf](#)

[C14609AE.pdf](#)

6. ADJOURNMENT

County of Dinwiddie Broadband Authority

MINUTES

Special Meeting – July 19, 2022, 8:00 PM

Board Meeting Room, Dinwiddie Government Center
14010 Boydton Plank Road, Dinwiddie, Virginia

Supervisors Present:

Harrison A. Moody, *Chair* Election District 1
Dr. Mark Moore, *Vice Chair* Election District 2
William Chavis Election District 3
Brenda Ebron-Bonner Election District 5

Administration Present:

W. Kevin Massengill, *County Administrator*
Tyler Southall, *County Attorney*

1. ROLL CALL

Mr. Lee was not present for the meeting.

2. AMENDMENTS TO AGENDA

Upon motion of Mr. Chavis, seconded by Mrs. Ebron-Bonner, the agenda was approved as presented.

AYES: Mrs. Ebron-Bonner, Dr. Moore, Mr. Chavis, Mr. Moody
NAYS: None
ABSENT: Mr. Lee

3. APPROVAL OF MINUTES

Upon motion of Dr. Moore, seconded by Mr. Chavis, the minutes were approved as presented.

AYES: Mrs. Ebron-Bonner, Dr. Moore, Mr. Chavis, Mr. Moody
NAYS: None
ABSENT: Mr. Lee

4. ACTION ITEMS

A. **Dinwiddie County Broadband Project Resolution**

Tyler Southall, County Attorney provided the following resolution for approval.

RESOLUTION AUTHORIZING THE ESTABLISHMENT OF A BANK ACCOUNT TO HOLD FUNDS ASSOCIATED WITH THE DINWIDDIE COUNTY BROADBAND PROJECT AND OTHER MATTERS

WHEREAS, on April 19, 2022, the Dinwiddie County Broadband Authority (the "Broadband Authority") approved an agreement pursuant to which it will provide certain financial incentives on a reimbursement basis for PGEC Enterprises, LLC, doing business as RuralBand, to design and construct a fiber the home project in Dinwiddie County, the goal of which is to achieve universal broadband coverage in Dinwiddie County; and

WHEREAS, the Broadband Authority needs a financial institution in which to place the place funds and make reimbursements related to the above-mentioned project; and

NOW, THEREFORE BE IT RESOLVED THAT W. Kevin Massengill, Executive Director of the Broadband Authority and Anne Howerton, Treasurer of the Broadband Authority, be authorized to place funds with a bank to be chosen by the Treasurer (the "Bank") in an account type that is conducive for assisting the Broadband Authority with the above-mentioned project, and other matters as may be required in the future; and

BE IT FURTHER RESOLVED THAT the Treasurer of the Broadband Authority be authorized to execute any documents necessary (1) to open and make deposits in, withdrawals from, and payments from the bank account and (2) carry out the purpose and intent of this resolution.

BE IT FURTHER RESOLVED that the following officers are authorized to sign for withdrawals and any other transaction associated with the account: Harrison A. Moody, Chair; W. Kevin Massengill, Executive Director; and Anne Howerton, Treasurer, any two of the three being required.

Upon motion of Dr. Moore, seconded by Mrs. Ebron-Bonner, the resolution was approved as presented.

AYES: Mrs. Ebron-Bonner, Dr. Moore, Mr. Chavis, Mr. Moody
NAYS: None
ABSENT: Mr. Lee

5. ADJOURNMENT

Upon motion of Dr. Moore, seconded by Mr. Chavis, the meeting was adjourned at 8:12 PM.

AYES: Mrs. Ebron-Bonner, Dr. Moore, Mr. Chavis, Mr. Moody

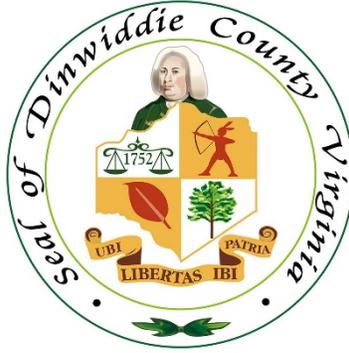
NAYS: None

ABSENT: Mr. Lee

Dr. Mark E. Moore
Vice Chair

ATTEST: _____
W. Kevin Massengill
County Administrator
Executive Director

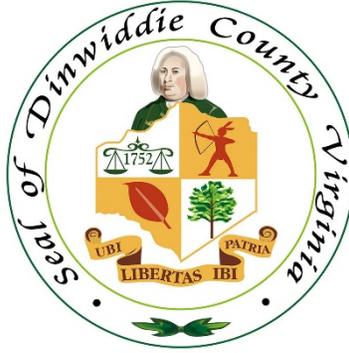
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Resolution

of the **DINWIDDIE COUNTY BROADBAND AUTHORITY**

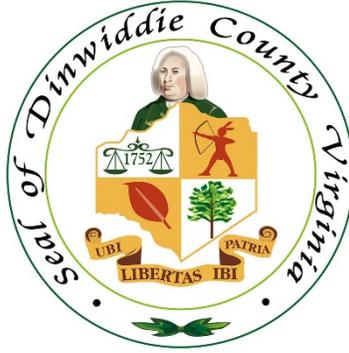
BE IT RESOLVED, by the Dinwiddie County Broadband Authority that _____ shall be appointed as the Chairman of the Dinwiddie County Broadband Authority for the year 2024, or until he or she resigns, is unable to hold office, or until a successor assumes office.



Resolution

of the **DINWIDDIE COUNTY BROADBAND AUTHORITY**

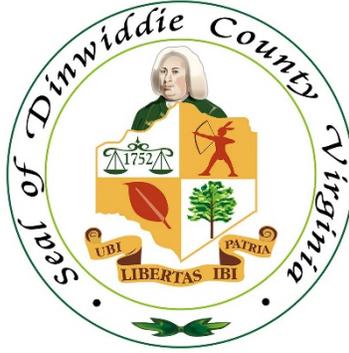
BE IT RESOLVED, by the Dinwiddie County Broadband Authority that _____ shall be appointed as the Treasurer of the Dinwiddie County Broadband Authority for the year 2024, or until he or she resigns, is unable to hold office, or until a successor assumes office.



Resolution

of the **DINWIDDIE COUNTY BROADBAND AUTHORITY**

BE IT RESOLVED, by the Dinwiddie County Broadband Authority that _____ shall be appointed as the Secretary of the Dinwiddie County Broadband Authority for the year 2024, or until he or she resigns, is unable to hold office, or until a successor assumes office.



Resolution

of the **DINWIDDIE COUNTY BROADBAND AUTHORITY**

BE IT RESOLVED, by the Dinwiddie County Broadband Authority that _____ shall be appointed as the Executive Director of the Dinwiddie County Broadband Authority for the year 2024, or until he or she resigns, is unable to hold office, or until a successor assumes office.



Dinwiddie County Administration

14010 Boydton Plank Road

Dinwiddie, Virginia 23841

Phone: 804-469-4500

MEMORANDUM

TO: Board of Supervisors

CC: W. Kevin Massengill, County Administrator
Anne Howerton, Deputy County Administrator, Finance and General Services
Tammie J. Collins, Deputy County Administrator, P&CD

FROM: Tyler C. Southall, County Attorney

DATE: June 18, 2024

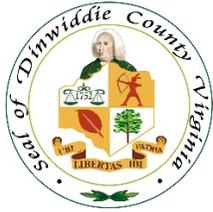
SUBJECT: Release and Agreement to Terminate Broadband Agreements in Light of Transfer of 2022 VATI Grant to Western Piedmont Planning District Commission

Background

At the direction of the Board of Supervisors, Dinwiddie County has spent significant amount of effort to bring broadband internet to the unserved and underserved people of Dinwiddie County. The fruit of these efforts included the award of a grant from the Tobacco Commission in 2018 as part of a joint project with Amelia County for a wireless project, the award of a 2022 VATI grant for a fiber-to-the-home project, and the formation of the Dinwiddie County Broadband Authority.

On April 25, 2022, Dinwiddie County and the Dinwiddie County Broadband Authority entered into an agreement with PGECE Enterprises, LLC (“PGECE”) with a goal of achieving universal availability of broadband in Dinwiddie County. PGECE subsequently encountered difficulties that stalled its progress, including an inability to place PGECE’s fiber on the vast majority of the poles required for the project on terms that made the project feasible within the budget available to PGECE.

The attached Release and Agreement to Terminate Broadband Agreements in Light of Transfer of 2022 VATI Grant to Western Piedmont Planning District Commission (“Agreement”) will terminate the aforementioned April 25, 2022 agreement. The Agreement also states that no party will owe any other party money related to the April 25, 2022 agreement. RiverStreet Networks (“RiverStreet”) has stated their intent to move forward with serving their RDOF award area, and PGECE has stated its intent to continue to move forward in the area in which they have RDOF and CAF II award money. The Agreement would allow the financial award that Dinwiddie received pursuant to the 2022 VATI grant to be applied to the projects of RiverStreet and PGECE in Dinwiddie County, so the projects would not lose any state or federal grant money by the approval of the Agreement. Local funds would be retained by the County and can be repurposed. It is my understanding that management of all RiverStreet VATI awards statewide



Dinwiddie County Administration

14010 Boydton Plank Road

Dinwiddie, Virginia 23841

Phone: 804-469-4500

is being consolidated with the Western Piedmont Planning District Commission. The PGECE project would also be overseen by the Western Piedmont Planning District Commission.

Taxpayer money was protected: Dinwiddie has not paid any money to RiverStreet or PGECE in connection with the broadband projects. The money in the broadband authority account is available to return to the County's capital improvements fund, which is the recommendation of staff.

Action

BE IT RESOLVED that the Release and Agreement to Terminate Broadband Agreements in Light of Transfer of 2022 VATI Grant to Western Piedmont Planning District Commission be approved, and that the County Administrator is authorized to sign the same in a form substantially similar to the form presented with such changes, substantive or otherwise, as he may approve, which approval shall be conclusively evidenced by his signature.

BE IT FURTHER RESOLVED that the money received back from the Dinwiddie County Broadband Authority be placed in the County's capital improvements fund.

BE IT FURTHER RESOLVED that all actions taken by County staff in furtherance of this resolution and the transfer of the 2022 VATI grant to the Western Piedmont Planning District Commission are hereby ratified.

BE IT FURTHER RESOLVED that County staff is authorized to take any other actions in furtherance of the intent of this resolution.

RELEASE AND AGREEMENT TO TERMINATE BROADBAND AGREEMENTS IN LIGHT
OF TRANSFER OF 2022 VATI GRANT TO WESTERN PIEDMONT PLANNING DISTRICT
COMMISSION

WHEREAS, on July 29, 2021, the County of Dinwiddie, Virginia (“Dinwiddie County”) put out a Request for Proposals (the “Broadband RFP”) “to solicit proposals from companies to 1) prepare and submit a last mile broadband grant application to the home to the Virginia Department of Housing and Community Development (“DHCD”) as part of the Virginia DHCD 2022 Virginia Telecommunication Initiative (“VATI”) grant pool, 2) prepare and submit last mile broadband grant applications to other sources of grant money, [and] 3) if any of the grants [were] awarded, [to] deploy and operate the required network infrastructure, provide affordable/competitive broadband internet service to government facilities, citizens and businesses in Dinwiddie County”; and

WHEREAS, PGECE Enterprises, LLC (“PGECE”) submitted a proposal in response to the Broadband RFP and such proposal envisioned delivering universal fiber to the home access to the parts of Dinwiddie that lacked broadband coverage; and

WHEREAS, Dinwiddie County, the Dinwiddie County Broadband Authority (the “Broadband Authority”), and PGECE entered into an agreement labelled Dinwiddie County Broadband Grant Application and Project Implementation (VATI), dated September 9, 2021 (the “Initial Agreement”); and

WHEREAS, Dinwiddie County applied with PGECE for a grant from the 2022 VATI grant pool for \$10,500,424 to provide universal broadband in the form of fiber-to-the-home internet service in Dinwiddie County, including, but not limited to, 5,522 homes and business passings; and

WHEREAS, due to a challenge of the 2022 VATI grant by RiverStreet Networks, the 2022 VATI grant amount ultimately was reduced to \$7,532,055; and

WHEREAS, on April 25, 2022, Dinwiddie County, the Broadband Authority, and PGECE entered into an agreement labelled “CONTRACT AMENDMENT I – PHASE II, PROJECT IMPLEMENTATION PERFORMANCE AGREEMENT FOR UNIVERSAL BROADBAND COVERAGE IN DINWIDDIE COUNTY” (the “April 25, 2022 Agreement”); and

WHEREAS, the April 25, 2022 Agreement required PGECE to “be solely responsible for turn-key furnishing all labor, equipment, materials, acquisition of any required permits and licenses, and all required easements to accomplish the Project Requirement”, and the Project Requirement “mean[t] the completion of Universal Broadband Availability in Dinwiddie County by December 31, 2024, subject to any extension that may be granted pursuant to Section 10. Extensions” in the April 25, 2022 Agreement; and

WHEREAS, PGECE and Dinwiddie County entered into a Memorandum of Understanding with Southside Electric Cooperative (the “SEC MOU”) and a Memorandum of Understanding with Dominion Electric and Power Company (the “Dominion MOU”, together with the SEC MOU, the “Electric MOUs”, and together with the SEC MOU, Initial Agreement and the April 25, 2022

Agreement, the “Broadband Agreements”), in each case to facilitate the completion of the accomplishment of attaining universal broadband coverage in Dinwiddie County; and

WHEREAS, PGECE subsequently encountered difficulties that stalled its progress, including an inability to place PGECE’s fiber on the vast majority of the poles required for the project on terms that made the project feasible within the budget available to PGECE, making it clear that PGECE would not be able to complete the Project Requirement within its available budget; and

WHEREAS, PGECE has agreed to allow \$6,893,337 of the 2022 VATI grant to be transferred to RiverStreet Networks, and PGECE intends for \$638,718 of the 2022 VATI grant to remain designated for PGECE, although Dinwiddie County and the Broadband Authority are not in any way responsible for ensuring that PGECE receives such funds; and

WHEREAS, pursuant to a letter dated May 21, 2024 from the Director of the VATI Office of Broadband, grant administration of the 2022 VATI grant is being transferred to the Western Piedmont Planning District Commission.

NOW THEREFORE, in consideration of the foregoing, the mutual benefits, promises and undertakings of the Parties to this Agreement, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

1. Recitals. The recitals listed above are hereby incorporated by reference herein.
2. Termination of Agreements. Dinwiddie County, the Broadband Authority, and PGECE each agree to terminate each of the Broadband Agreements and each of the Broadband Agreements are hereby terminated. The Parties agree that Dinwiddie County may provide notice to Dominion and SEC of the termination of the Electric MOUs at Dinwiddie County’s convenience.
3. Release and Discharge. With the understanding that Dinwiddie County and the Broadband Authority have not paid and never will pay any money to PGECE for any work related to any PGECE fiber-to-the-home project in Dinwiddie County, Dinwiddie County, the Broadband Authority, and PGECE release and forever discharge each other of and from and all past, present or future claims, demands, obligations, actions, causes of action, rights, damages, costs, loss of services, expenses, and/or compensation related to the Broadband Agreements and any related obligation(s) to which they may be entitled. Without limiting the foregoing, PGECE releases any claim it may have had for any payment or reimbursement for any expenses related to the Broadband Agreements and any related obligation(s), and Dinwiddie County and the Broadband Authority release any claim they may have had for breach of contract related to the Broadband Agreements or any related obligation(s).
4. Warranty and Capacity to Execute Agreement. Each party hereto represents and warrants that each person whose signature is affixed on its behalf is authorized to sign this Agreement. Each person who signs this Agreement represents and warrants that he is authorized to sign this Agreement.

5. Entire Agreement and Successors in Interest. This Agreement contains the entire agreement between the parties with regard to the matters set forth herein and shall be binding upon and inure to the benefit of the successors and assigns of each party hereto.
6. No Interpretation Against Drafter. Each party had an opportunity to participate in the negotiation and drafting of this Agreement, assisted by such legal counsel as it desired, and had the opportunity to contribute to its revisions. Any ambiguities with respect to any provision of this Agreement will be construed fairly as to all parties and not in favor of or against any party. Any rules of construction relating to interpretation against the drafter of an agreement shall not apply to this Agreement and are expressly waived.
7. Governing Law and Venue. This Agreement shall be governed by Virginia law.
8. Effectiveness. This Agreement shall become effective on the date of its execution.

PGEC Enterprises, LLC
By: Sarat Yellepeddi, CEO
Date: _____

County of Dinwiddie, Virginia
By: W. Kevin Massengill, County Administrator
Date: _____

Dinwiddie County Broadband Authority
By: William D. "Bill" Chavis, Chair
Date: _____

Approved as to Legal Form
Tyler Southall, Dinwiddie County Attorney