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TO: Colchester Selectboard  
CC: Senator Mazza, Representative Taylor, Representative Chase,  
Representative Austin, and Representative Brennan  
FROM: Aaron Frank, Town Manager  
DATE: January 4, 2022  
RE: Broadband Update

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**Issue:** Over the past several months, Town of Colchester staff has continued to work on identifying the opportunities that exist to achieve high quality broadband expansion within the Town. While recent State legislation and federal funding therewith has brought resources to the broadband issue, significant hurdles remain for the Town to be able to access those resources and make meaningful progress on broadband expansion.

**Background:** Improved broadband service for Colchester residents and businesses continues to be a Selectboard and community goal. Over the past several months, the Town has summarized the current legislation, funding, and available programs with the potential to aid in the expansion of high quality broadband service, including Act 71 and the legislation enabling Communications Union Districts. This information can be found in several documents:

<https://www.colchestervt.gov/ArchiveCenter/ViewFile/Item/766>

[https://clerkshq.com/Content/Attachments/Colchestervt/210928\\_08f.pdf?clientSite=Colchester-vt](https://clerkshq.com/Content/Attachments/Colchestervt/210928_08f.pdf?clientSite=Colchester-vt)

**Challenges with Current Legislation & Programs:** While significant resources are being devoted State-wide towards the expansion of broadband, there are several issues making it difficult for Colchester to access them.

**Act 71:** The most recent State broadband legislation, H.360/Act 71, allocated millions of federal funds to broadband expansion and created the Vermont Community Broadband Fund (VCBF). The VCBF will be overseen by the Vermont Community Broadband Board (VCBB), which will award and administer grants for broadband projects.

Challenges with Act 71 include:

- 1) Act 71 categorizes all addresses in Vermont into three groups; unserved (less than 4/1 Mbps speeds), underserved (between 4/1 Mbps and 25/3 Mbps), and served (greater than 25/3 Mbps). Access to the \$150 million + in broadband funds that were allocated in Act 71 is limited to unserved and underserved areas. Currently, according to the best available data, there are less than 200 addresses in Colchester that

meet the definition of unserved or underserved (without access to 25 Mbps internet). ***Therefore, only a small fraction of Colchester addresses have the potential to benefit from the resources included in Act 71.***

- 2) In order to access grant funds for broadband construction, Act 71 requires the development of a Universal Service Plan, which is defined as “a plan for providing each on-grid unserved and underserved location in a Communications Union District or in a municipality that was not part of a Communications Union District prior to June 1, 2021 Access to Broadband service capable of speeds of at least 100 Mbps download and 100 Mbps upload.” With a very limited number of unserved or underserved addresses within Colchester, which are located in several unconnected pockets around the Town, it appears that serving these locations will not be accomplished through in a single large Town-wide construction project. Rather, based on the Town’s conversations with internet service providers, addressing the small number of unserved and underserved areas one at a time appears to be the most feasible approach. However, the Universal Service Plan language suggests that broadband expansion cannot be accomplished via a piecemeal neighborhood by neighborhood approach. ***The requirement for a Universal Service Plan in order to access Act 71 grant funds is incompatible with what appears to be the most likely and advantageous approach to expand broadband to unserved and underserved areas in Colchester.***
- 3) Act 71 and the VCBF strongly favors communities that have elected to join a Communications Union District (CUD). Individual municipalities cannot apply for VCBF grants to fund broadband projects. The only eligible grant recipients are “eligible service providers,” which are defined as a) a Communications Union District, b) a small communications carrier, or c) an Internet Service Provider working with a Communications Union District to expand broadband to unserved and underserved locations. While many Vermont municipalities, particularly those in rural areas, have elected to join a CUD, Colchester has not elected to join a CUD at this time (see details below). ***The exclusion of municipalities as an eligible applicant and the preference for CUD participation limits the Town’s ability to directly access resources to expand broadband availability.***

Communication Union Districts: The Communications Union District Legislation (Title 30, Chapter 082) authorized the creation of CUDs, which allows two or more municipalities to join together for the purpose of “delivering communications services and operating a communications plant.” To-date, 12 CUDs have been created in Vermont, however no CUD currently exists within/among Chittenden County municipalities. The closest existing CUD to Colchester is the Northwest CUD (now known as Northwest Fiberworx), serving Franklin County communities.

Over the past six months, Colchester has evaluated the possibility of joining a CUD and continues to have discussions to understand the opportunities that are available.

### Challenges with CUD Membership:

- 1) While the Town Selectboard can vote join a CUD on its own, only the voters can authorize leaving a CUD once the Town is a member. However, a Town cannot leave a CUD at all once the CUD takes on debt. Local taxes cannot be used to fund broadband, rather only grants and financing to be repaid only by future user fees can be used. ***There are advantages associated with being a member of a CUD, such as the access to grant funds as outlined above, but there are financial risks as well , which makes it a difficult decision.***
- 2) If the Town were to join a CUD, widespread improvements to Colchester broadband would not be accomplished quickly as the State is prioritizing areas with slower than 25/3 Mbps for funding, and these areas in Colchester are quite limited. It could easily take a decade and over \$1 billion more than is now available from the state and federal government to get 100/100 Mbps internet to all addresses in the State of VT. ***The timeline and costs for broadband expansion are not clearly defined and CUD membership does not necessarily mean broadband expansion will be accelerated.***

### Next Steps

- 1) The Town is actively engaging multiple providers about their willingness to serve the unserved and underserved addresses in Colchester as well as the entire town with at least 100/100 Mbps. This could avoid having to join a CUD, and the resulting government debt that will ultimately result from joining a CUD. It could also result in quicker service without as much government financial support.
- 2) Should the Town be unable to find a private party willing to build out at least 100/100 Mbps service and should the prospects of the CUD become more likely to serve our needs, Town staff may recommend that the Selectboard consider this option.