

# **Virginia Broadband Advisory Council**

**2018 Annual Report**

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# Broadband Advisory Council

## Introductory Background

In today's connected world, the societal importance and economic relevance of broadband is becoming increasingly clear. Recognizing the need to provide all Virginians with broadband access, the Broadband Advisory Council ("the Council") was established pursuant to Va. Code § 2.2-100, within the executive branch of the Commonwealth. The Council's purpose is to advise the Governor on policy and funding priorities in order to expedite deployment and reduce the cost of broadband access in the Commonwealth. The Council was created after a recommendation by the Broadband Roundtable, established by Governor Kaine in 2007, and was codified during the 2009 legislative session (HB2423).

This overview will provide an outline of the Council's duties, Council membership, legislative accomplishments, and a summary of the 2018 Broadband Advisory Council meetings.

## Council Duties

The Broadband Advisory Council was established to determine the Commonwealth's broadband goals and how best to achieve them. The Council's duties include:

- A. Annual reporting to the Governor and the Joint Commission on Technology and Science on the progress towards the goal of universal access for broadband, assessment of the Commonwealth's broadband infrastructure investments, and utilization of Council-supported resources to promote broadband access;
- B. Advising the Governor, Secretary of Technology (now, Secretary of Commerce & Trade), and the General Assembly on policies and strategies related to making affordable broadband services available to every Virginia home and business;

- C. Monitoring regulatory and policy changes for potential impact on broadband deployment and sustainability in the Commonwealth;
- D. Periodically reviewing and commenting on the quality, availability, and accessibility of state-maintained or funded broadband resources and programs, including but not limited to: Virginia Resources Authority Act funding of the "Online Community Toolkit;" the Center for Innovative Technology's mapping and outreach initiatives; investments made through programs administered by the Department of Education, Department of Housing and Community Development (the VATI program), Department of Public Rail and Transportation, and the Virginia Tobacco Region Revitalization Committee;
- E. Monitoring the broadband-based development efforts of other states and nations in areas such as business, education, and health;
- F. Monitoring broadband-related activities at the federal level; and
- G. Encouraging public-private partnerships to increase the deployment and adoption of broadband services and applications.
- H. Establishing recommendations on the definition of broadband at 10/1 to facilitate and provide guidance and focus on unserved Virginians

## Council Membership

As prescribed by the law, the Council consists of members representing various stakeholders in the Virginia broadband industry and the state legislature. In 2018, the Broadband Advisory Council was comprised of 13 members: four delegates, two senators, the Secretary of Commerce and

Trade, the Secretary of Agriculture and Forestry, and representatives from Virginia Cable Telecommunications Association (VCTA), Virginia Telecommunications Industry Association (VTIA), Center for Rural Virginia, Virginia Chapter of WISPA, and local government. The Council members are:

- Delegate Kathy Byron (Chair)
- Senator Frank Ruff (Vice Chair)
- Delegate Jennifer Boysko
- Delegate James Leftwich
- Delegate Emily Brewer
- Senator Charles Carrico
- Secretary Bettina Ring
- Secretary Brian Ball
- Ray LaMura, VCTA - Virginia Cable Telecommunications Association
- Duront Walton, VTIA – Virginia Telecommunications Industry Association
- Kristie Helmick Proctor, Center for Rural Virginia
- James Carr, All Points Broadband
- Rosemary Wilson, Virginia Beach City Council

The Council Staff are:

- Chuck Kirby (CIT)
- Caroline Luxhoj (CIT)
- Jean Plymale (CIT)
- Jeff Sharp (DLS)

## Accomplishments

Since its 2009 codification, the Council has played a key role in Virginia broadband advancement. Council members gain a broad understanding of the Commonwealth's broadband goals - and how best to achieve them - by listening to testimony and presentations from both private and public

sector industry stakeholders and experts. Consequently, several past and current Council members introduced broadband legislation aimed at supporting the needs of, or mitigating barriers to, Virginia broadband deployment.

## 2018 General Assembly Session

### HB640

- i. Senator Jennifer Boysko carried legislation asking that broadband infrastructure be included in local government comprehensive plans. HB640 stipulates that a locality's comprehensive plan shall consider strategies to provide broadband infrastructure that is sufficient to meet the current and future needs of local residents and businesses. To this end, local planning commissions may consult with and receive technical assistance from the Center for Innovative Technology, among other resources. In the preparation of a comprehensive plan, broadband infrastructure shall be included among the matters that the local planning commission shall survey and study.

### HB1583

- ii. Delegate Kathy Byron introduced HB1583, which established the position of Commonwealth Broadband Chief Advisor (Chief Advisor) within the Office of the Secretary of Commerce and Trade to serve as Virginia's single point of contact and integration for broadband issues, efforts, and initiatives, in addition to increasing the availability and affordability of broadband throughout all regions of the Commonwealth. The Secretary of Commerce and Trade shall designate the Chief Advisor, and staff for the Chief Advisor shall be provided by the Center for Innovative Technology and the Department of Housing and Community Development.

### HB30

- iii. Delegate Byron also proposed a budget amendment to HB30 (Budget bill) which sought to increase funding to the Department of Housing and Community Development for the Virginia Telecommunications Initiative

\$23,000,000 from the general fund the first year and \$23,000,000 from the general fund the second year.

## 2019 General Assembly Legislative Considerations

A chief responsibility of the Broadband Advisory Council is to recommend legislation that removes barriers to deployment and promotes broadband expansion in the Commonwealth. Broadband Advisory Council members have often introduced their own legislative remedies. In 2019, the Broadband Advisory Council is expected to consider new policy options intended to promote the Commonwealth's broadband objectives.

- i. The Broadband Advisory Council is essential to the Governor's stated goal of universal broadband in the Commonwealth. Currently the Council is set to expire on July 1, 2019. Legislation to extend the expiration of the Council is expected to be introduced.
- ii. Railroad crossings as barriers to broadband deployment received renewed attention recently among stakeholders, as well as in the Council. A legislative solution might be necessary to lessen this known barrier to broadband expansion.

Prior accomplishments in Virginia broadband deployment made by the Broadband Advisory Council can be seen in previous Council annual reports at: <https://rga.lis.virginia.gov/search/?query=Broadband+Advisory+Council>

## Summary of 2018 Meetings

Starting on April 30, 2018 the Council met five times throughout the year to discuss, deliberate, learn, and report on broadband issues and public policy as it relates to the deployment interests of the Commonwealth.

April 30, 2018, Richmond, Virginia

- i. The Council received an update from the Department of Legislative Services (DLS) regarding broadband related legislation from the 2018 General Assembly Session.
  - 1. HB640 – locality comprehensive plan
  - 2. HB1583 – creation of Chief Broadband Advisor
  - 3. HB30 – increase in VATI funding
- ii. The Center for Innovative Technology (CIT) also provided the Council with an update regarding CIT’s broadband activities. After the updates, the Council discussed a variety of broadband topics to include in future Council agendas.

June 18, 2018, Roanoke, Virginia

The Council listened to presentations regarding municipal broadband authorities, TV whitespace technology, and issues concerning deploying broadband at railroad crossings.

- i. The Eastern Shore of Virginia Broadband Authority and the Roanoke Valley Broadband Authority both gave brief presentations.
- ii. A representative from the Center for Advanced Engineering and Research and a representative from Adaptrum (TV white space device manufacturer) presented on TV Whitespace Broadband Technology. The presentation provided an overview of the technology and its potential in facilitating rural broadband development in unserved areas.
- iii. The Council is charged with mitigating potential barriers to broadband deployment. To provide insight on a persistent obstacle to deployment in the Commonwealth, Roger Frazier,



Scott County Telephone Cooperative, presented on barriers to broadband deployment caused by railroad crossing fees and approval processes. Following that presentation, Tim Bentley spoke on Norfolk Southern's processes for approving broadband over railroad crossing applications and the associated fees, seeking to clarify the issue.

- iv. Concluding the updates, American Electric Power (AEP) spoke to the Council on its fiber deployment in rural Virginia. AEP then briefly presented the possibility of expanding that fiber into other locations using existing AEP resources. A representative from AEP informed the Council that AEP is deploying fiber internally to support AEPs grid and business operations, which could be used as an opportunity to expand that fiber into other places. The AEP broadband feasibility study, due in December 2018, was discussed.

#### August 15, 2018, Middleburg, Virginia

- i. At this meeting, the Commonwealth's Chief Broadband Advisor, Evan Feinman, introduced himself to the Council. Feinman spoke about the Governor's goal of deploying broadband to all households in the Commonwealth within a ten-year period. Feinman stated that the efforts to connect all Virginians will focus on private sector delivery while hopefully leveraging both state and federal funds.
- ii. Delegate LaRock, 33rd District, made a presentation to the Council regarding HB 1283, a bill concerning utility easements and pole attachments. HB1283 declares that "a public service company that acquired a prescriptive easement that is used to provide electrical service is deemed to have the right to grant to a provider of broadband or other telecommunications services the

right to attach its wires and appurtenant facilities to the public service company's poles, subject to the conditions that the public service company not charge pole attachment fees for five years and that the public utility and telecommunication service provider equally share the costs of making the poles ready.”

- iii. The Council also received updates from the Department of Housing and Community Development (DHCD) and the Tobacco Region Revitalization Commission (TRCC) on the subject of broadband grant programs. Courtney Dozier, Deputy Broadband Advisor and Chief Deputy at DHCD, provided a brief summary of 2018 Virginia Telecommunication Initiative (VATI) successes and spoke to the goals of the 2019 VATI program. The presentation included an outline of the projects recommended for funding and the direct impact of those projects on deploying broadband. Dozier finished by providing an overview of the 2019 VATI program timeline, application, and new challenge process. The 2019 VATI program will receive \$4 million in funding for FY2019 and will focus on unserved areas with priority given to private sector projects.
- iv. The Council concluded with an update from Evan Feinman on the Tobacco Commission Broadband Last Mile grant program. Feinman explained that the Last Mile Grant Program primarily funds backbone and middle mile infrastructure, but is now focusing on last mile in an effort to meet the Governor’s broadband goals. Feinman also provided a short update on the FCC Connect America Fund (CAF II) auction.

## October 22, 2018, Richmond Virginia

The Council held a roundtable discussion in an effort to identify and discuss broadband deployment concerns that require further exploration.

- i. Roundtable discussion topics included:
  - Current barriers to broadband deployment;
  - Barriers that have been removed;
  - Benchmarks to ensure deployment progress;
  - How to leverage external funding to maximize the impact of Commonwealth funding;
  - Anticipated technological innovations affecting broadband; and
  - Anticipated budget requests that could affect broadband policies.

## October 23, 2018, Richmond, Virginia

The Council heard presentations regarding DHCD's VATI grant program, fixed wireless technologies, poll attachments, and Virginia's electric cooperatives (Virginia, Maryland & Delaware Association of Electric Cooperatives –"VMDAEC").

- i. Courtney Dozier provided a brief update regarding DHCD's VATI grant program;
- ii. James Carr, Council member and CEO of All Points Broadband, addressed the Council on the fixed wireless industry and the role fixed wireless technologies play in closing the digital divide. Carr provided an overview of the fixed wireless industry and common misconceptions of rural broadband deployment. The presentation

included recent developments in fixed wireless for rural broadband expansion. Carr explained that these developments will further remove obstacles to deploying fixed wireless in today's market.

- iii. Michael Brady, SVP Comcast, gave a presentation to the Council on the history and current role of poles and pole attachments in the telecommunications industry.
- iv. Andrew Vehorn gave the final presentation regarding the role of Electric Cooperatives in rural broadband deployment in the Commonwealth. Vehorn chronicled the inception of Electric Cooperatives in Virginia and offered explanations as to why co-ops should assist in broadband expansion in rural areas. The presentation provided brief updates on Virginia electric cooperatives already facilitating broadband expansion including BARC Electric Cooperative, Central Virginia Electric Cooperative, Mecklenburg Electric Cooperative, and Prince George Electric Cooperative.
- v. The Broadband Advisory Council adopted the following policy recommendations for the consideration of the Governor and the General Assembly:
  - 1. Ensuring that all Virginians have access to fixed broadband service with unlimited data allowances and speeds of at least 10 Mbps download and 3 Mbps upload must be the first priority for all publically funded broadband support mechanisms. Public subsidiaries should not be allocated to overbuild privately funded networks.
  - 2. Publicly funded broadband support mechanisms must be technology agnostic.

At their final meeting of 2018, the Council also discussed potential broadband focused legislation for the upcoming 2019 legislative session.

## Conclusion

The Broadband Advisory Council is responsible for advising the Governor on policy and funding priorities in an effort to advance deployment and adoption, while diminishing barriers to broadband access in the Commonwealth. The Council recognizes that broadband access and adoption promotes economic development and social equity while providing health, safety, and educational opportunities for Virginians. By prioritizing access to the unserved and addressing barriers through a variety of stakeholder supported policy and funding recommendations to the Governor, the Council helps expedite the goal of bringing broadband to all Virginians.

All minutes can be found at

<http://www.wired.virginia.gov/broadband/advisory-council/>