

Bristol Town Administrator

From: Nancy Cornell <ncornell7@gmail.com>
Sent: Tuesday, August 18, 2020 5:09 PM
To: Bristol Town Administrator
Cc: Bill Brown; Adam ACRPC
Subject: Fwd: Broadband and ACCUD
Attachments: Addison County CUD_Selectboard Resolution final.doc

Dear Valerie,

Bill Brown asked me to email documents to you concerning the formation of the Addison County Communications Union District (ACCUD); and concerning the question of whether the Bristol Select Board will vote to enable Bristol to join this newly forming district. With this email I am forwarding you information that I received from Adam Lougee, Director of the Addison County Regional Planning Commission, about this matter. The info includes a link to an FAQ about CUD's (Communications Union Districts) and also an attached sample resolution that the Select Board should warn, complete and vote at its meeting.

I would urge the Board to adopt this resolution since there is no financial risk to Bristol (see info on this in the FAQ document). The ACCUD will be focused on expanding reliable, high speed internet access across all the towns of the county. A number of towns in our school district and elsewhere in the county have already joined, or are in the process of joining. Through Adam's leadership, the ACCUD has already secured grants of approximately \$110,000 and hired some terrific consultants to move forward with a feasibility study and a business plan.

I believe that, in expanding high speed internet access across our county, we will provide huge benefits to K-12 students (whether or not they are doing school remotely); but also to our communities - bringing expanded economic opportunity, attracting new families to our area, and increasing enrollment in our schools so that none of them have to closed or be re-purposed.

Adam is planning to convene the ACCUD at the end of August - so if it IS possible to address this issue at your August 24 meeting, that would be great. Also, Adam will be happy to answer any questions the Select Board may have about this, at or before the August 24 meeting.

I am also happy to help in any way.

Sincerely,

Nancy Cornell, Member of the 5-Town Broadband Task Force

----- Forwarded message -----

From: Adam ACRPC <alougee@acrpc.org>
Date: Thu, Aug 6, 2020 at 1:37 PM
Subject: Broadband and ACCUD
To: <ncornell7@gmail.com>
Cc: John McNerney <jmcnerney@monktonvt.com>, Kevin Behm <kbehm@acrpc.org>

Hi Nancy and John:

Thank you both for reaching out.

Nancy, attached is the "Frequently asked questions" list about CUDs from the Department of Public Service we discussed.

Please review these resources

<https://publicservice.vermont.gov/content/communications-union-districts-faq>

There appears to be little risk to the town in forming a CUD. You will want to educate your Selectboard concerning these answers. This document addresses most questions a public official would have about any risk they might be undertaking. Once you have convinced the Selectboard that there is no risk to the town or taxpayers by joining a CUD. Ask them to adopt a resolution to join the Addison County CUD.

Attached please find a sample resolution to join the Addison County CUD. Since the CUD has been formed, the Selectboard need only adopt this resolution and appoint a representative.

I am also happy to speak to your selectboards.

Nancy, we also spoke about reaching out to the Supervisory Union and making sure they provide data on their student locations to the department of Public Service. Kevin Behm, copied above is also doing that from ACRPC and can serve as a resource.

Lastly, perhaps the 5 town business council could solicit addresses and stories from its members, especially those that work from home about their need for fiber. That would also help us in our future grant rounds.

Please let me know if you need anything else.

Best,

Adam

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Nancy Cornell

**A RESOLUTION APPROVING THE FORMATION OF THE ADDISON COUNTY
COMMUNICATIONS UNION DISTRICT AND APPOINTING A REPRESENTATIVE TO THE
GOVERNING BOARD THEREOF**

WHEREAS, the Selectboard of the Town of _____, acting pursuant to authority granted by Section 1 of No. 119 of the Acts of 2020, hereby approves the formation of the Addison County Communications Union District (“District”, “AC CUD”) under the provisions of 30 V.S.A. chapter 82 and

WHEREAS, the Town of _____ Selectboard has good reason to believe that one or more other towns intend to form the Addison County Communications Union District (“District”, “AC CUD”) and

WHEREAS, as provided in Section 3059 of said chapter, initial appointments to the Governing Board of the District shall be made within 60 days of the vote to form a district under subsection 3051(b) and,

WHEREAS, as provided in Section 3060 of said chapter, the Governing Board’s initial organizational meeting shall be held within 90 days of the vote following the appointments contemplated in section 3059

NOW, THEREFORE, BE IT RESOLVED THAT:

(1) The Selectboard of the Town of _____ hereby approves the creation of the Addison County Communications Union District, and its qualification as a communications union district under the provisions of 30 V.S.A. chapter 82.

(2) The Selectboard of the Town of _____ hereby appoints the following representative and one or more alternates to the Governing Board of the Addison County Communications Union District for the initial term ending on or before the last Monday in April 2021:

Representative: _____

Alternate: _____

Alternate: _____

Adopted at a regular meeting of the Selectboard of the Town of _____ duly held on the ____ day of _____ 2020.

ATTEST: _____
Selectboard Chair

Town Clerk

Date

COMMUNICATIONS UNION DISTRICTS FAQ

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1. [What is a Communications Union District \(CUD\)](#)
2. [Is there a map of current Communications Union Districts?](#)
3. [What are some reasons for creating a CUD?](#)
4. [How many towns should be in a CUD?](#)
5. [How are CUD boundaries determined?](#)
6. [What is the cost to the taxpayer and town in order to be part of a CUD?](#)
7. [Can a town use funds derived from taxes to pay for any expenses incurred by or in support of a CUD, including feasibility studies, cost assessments, legal counsel retention, grants, build-out or make-ready costs?](#)
8. [Is the taxpayer or town liable for CUD losses or insolvency?](#)
9. [If tax dollars cannot be used to fund the launch of a CUD, how can the CUD can be initially funded?](#)
10. [How does a town join a CUD?](#)
11. [What language must a town include on the town meeting warrant or vote on at a select board meeting?](#)
12. [What are the next steps after towns vote to create a CUD?](#)
13. [Can a town withdraw from a CUD?](#)
14. [Can a town apply a special assessment to finance a build for the town?](#)
15. [How does a CUD operate? Are there examples of bylaws?](#)

COMMUNICATIONS UNION DISTRICTS (CUDs)

1. What is a Communications Union District (CUD)

A CUD is a Communications Union District, allowing two or more towns to bond together as a municipal entity for a means of building communication infrastructure together. For more information see [Title 30: Public Service, Chapter 82: Communications Union Districts \(https://legislature.vermont.gov/statutes/chapter/30/082\)](#) in Vermont state statutes. Other types of municipal districts include Solid Waste Districts, Consolidated Sewer Districts, Emergency Medical Service

Districts, Natural Resources Conservation Districts, and Consolidated Water Districts.

2. Is there a map of current Communications Union Districts (CUDs)?

[Map of Current Communications Union Districts \(CUDs\) \(/sites/dps/files/CUDsJuly202020.pdf\)](/sites/dps/files/CUDsJuly202020.pdf)

3. What are some reasons for creating a CUD?

- Aggregate demand – Mixing dense and less dense towns makes the project more attractive to providers (with more negotiating power for the CUD).
- The entire region can benefit rather than creating a digital divide with town-by-town buildout by different carriers.
- Funders are familiar with municipal districts.
- Efficiency – Network design, construction, and operation can all be more efficient when planned together from the onset.
- Town boundaries are less important than roads, topography, and settlement patterns.
- Risk mitigation – Individual towns are not on the hook.
- Additional funding opportunities – Easier access to federal and state grants and loans that require providing services to those least served.
- You don't have to reinvent the wheel – Lessons learned and resources can be shared.

4. How many towns should be in a CUD?

At least two towns are required to start, but there is no limit. Member towns do not need to be contiguous.

5. How are CUD boundaries determined?

Some questions/issues to consider:

- °What is the critical mass? You need people, area, subscribers; more towns = increased negotiating power.
- °What towns in your area typically work well together on projects?
- °Topography and geography – Are towns connected by roads?
- °How many representatives sitting at a table is too many?

6. What is the cost to the taxpayer and town in order to be part of a CUD?

Nothing. Neither the taxpayer nor the town is required to pay anything in relation to a CUD. [Section 3056\(a\) of Title 30 \(https://legislature.vermont.gov/statutes/section/30/082/03056\)](https://legislature.vermont.gov/statutes/section/30/082/03056) states that the “district shall not accept funds generated by a member’s taxing or assessment power.” This means that a CUD cannot accept funds derived from a local options tax to finance a CUD. A CUD must fund its operations by bonds backed by the revenue derived from the project, grants, or gifts.

7. Can a town use funds derived from taxes to pay for any expenses incurred by or in support of a CUD, including feasibility studies, cost assessments, legal counsel retention, grants, build-out or make-ready costs?

No. A CUD, as a municipal organization, must obtain funding via grants, gifts, or loans backed by revenues derived from the operation of the CUD or the CUD itself. See [30 V.S.A. § 3056 \(https://legislature.vermont.gov/statutes/section/30/082/03056\)](https://legislature.vermont.gov/statutes/section/30/082/03056) for more detail.

8. Is the taxpayer or town liable for CUD losses or insolvency?

No. CUDs are obligated to ensure that any and all costs related to revenue losses or curtailment or abandonment of services are not borne by the taxpayers of CUD members

9. If tax dollars cannot be used to fund the launch of a CUD, how can the CUD be initially funded?

The CUD can be initially funded with revenue bonds, loans, grants, gifts or any source of funding not generated by a member's taxing authority. Loans must not be backed by anything other than revenues derived from the operation of the CUD or the CUD itself. See [30 V.S.A. § 3056](https://legislature.vermont.gov/statutes/section/30/082/03056) (<https://legislature.vermont.gov/statutes/section/30/082/03056>) for more information.

10. How does a town join a CUD?

A town can join a CUD in two ways. Under [30 V.S.A. § 3051](https://legislature.vermont.gov/statutes/section/30/082/03051) (<https://legislature.vermont.gov/statutes/section/30/082/03051>), the initial CUD must be established through a Town Meeting Day vote, where all initial member towns vote to form the municipal organization. After the initial CUD is formed a member town can be added through a selectboard vote or another Town Meeting Day vote. See [30 V.S.A. § 3082](https://legislature.vermont.gov/statutes/section/30/082/03082) (<https://legislature.vermont.gov/statutes/section/30/082/03082>) for more information. Note: During the COVID-19 State of Emergency, a CUD can be created by the selectboard vote of two towns. A town meeting vote is not required. See [Act 119](https://legislature.vermont.gov/bill/status/2020/H.958) (<https://legislature.vermont.gov/bill/status/2020/H.958>).

11. What language must a town include on the town meeting warrant or vote on at a select board meeting?

Under the provisions of [30 V.S.A. § 3051 \(b\)](https://legislature.vermont.gov/statutes/section/30/082/03051) (<https://legislature.vermont.gov/statutes/section/30/082/03051>), a proposition using substantially the following language shall be submitted to the voters of each town: "Shall the Town of [insert municipality] enter into a communications union district (CUD) to be known as [insert name of CUD], under the provisions of 30 V.S.A. Ch82?"

[Insert name of CUD] is a municipal entity, made up of 2 or more towns, with the specific purpose to build out, maintain, and operate broadband infrastructure in order to provide a last-mile, Fiber-to-the-Home (FTTH) network for [Insert name of region(s)], which will provide high-speed internet (up to 100mbps) to all residents in member communities. Membership in the CUD poses no financial risk to the Town of [insert municipality] or individual taxpayers within [insert municipality], and any and all costs associated with the investment in communications infrastructure are not borne by the taxpayers of district members. All towns that approve this ballot measure will become members of the CUD and each member town must appoint a representative to the CUD board of directors.

12. What are the next steps after towns vote to create a CUD?

- Each select board will need to appoint a resident of the town and an alternate to the CUD board, using a CUD board appointment resolution ([Sample Resolution](https://publicservice.vermont.gov/content/sample-resolution-approving-creation-communications-union-district) (<https://publicservice.vermont.gov/content/sample-resolution-approving-creation-communications-union-district>)). Board members will be responsible for speaking on behalf of their residents and reporting back to the select board on a regular basis on the progress of the CUD.
- The CUD board holds its first meeting and reviews materials to bring themselves up to speed on work done so far, and build an understanding of pending decisions the board will need to make in order to continue moving the process forward. At the meeting, the board shall elect from among its appointed representatives a chair and a vice-chair, each of whom shall hold office for one year and until his or her successor is duly elected. The board will then file with the Secretary of State a document attesting to the vote by towns to create the Communications Union District.
- The CUD develops and/or adopts bylaws.
- The CUD files a Trademark (<https://sos.vermont.gov/corporations/other-services/trademarks/>) with the Secretary of State.

13. Can a town withdraw from a CUD?

Yes. In order to withdraw, the CUD member must publicly warn its voters of its intention to withdraw and subsequently hold a vote. A CUD member can only withdraw if a majority of its voters vote to withdraw from the CUD. The vote must be held at an annual or special meeting of the town or city.

The town member must then give other CUD members notice of the vote to withdraw and hold a meeting to determine if it is in the best interest of the CUD to continue operating. Another vote by the CUD must then be held to either withdraw the town member or dissolve completely.

See [30 V.S.A. § 3081](https://legislature.vermont.gov/statutes/section/30/082/03081) (<https://legislature.vermont.gov/statutes/section/30/082/03081>) for more information.

14. Can a town apply a special assessment to finance a build for the town?

Possibly. A special assessment can be used to fund a CUD *only if* it will serve a limited area of the town. In other words, if the entire town will be served by the CUD, a special assessment cannot be used. Furthermore, any tax or assessment on property requires advanced authorization of the General Assembly. See [30 V.S.A. § 3056 \(b\)](https://legislature.vermont.gov/statutes/section/30/082/03056) (<https://legislature.vermont.gov/statutes/section/30/082/03056>) for more information.

15. How does a CUD operate? Are there examples of bylaws?

A CUD is a municipal organization. Each town sends a delegate or an alternate to meetings of the CUD. Operating procedures and powers are detailed in [30 V.S.A. Chapter 82](https://legislature.vermont.gov/statutes/chapter/30/082) (<https://legislature.vermont.gov/statutes/chapter/30/082>).

Department of Public Service

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