

APPROVED MINUTES

SEVENTY SECOND MEETING
of the

BOARD OF DIRECTORS

of the

MASSACHUSETTS BROADBAND INSTITUTE

June 22, 2022
Zoom Videoconference

The Seventy Second Meeting of the Board of Directors of the Massachusetts Broadband Institute (“MBI”) was held on June 22, 2022, via Zoom videoconference, pursuant to notice duly given to the Directors and publicly posted on the Massachusetts Technology Collaborative (“MassTech”) website with corresponding notice provided to the Office of the Secretary of State and the Executive Office for Administration and Finance.

The following members of the MBI Board of Directors attended the meeting: Secretary of Housing and Economic Development Mike Kennealy (represented by Peter Larkin of the Executive Office of Housing and Economic Development), Don Dubendorf, Linda Dunlavy, Paul Nicolai, Karen Charles, Fred Keator, Carolyn Kirk, and David Clark.

The following Mass Tech Collaborative staff was present: Michael Baldino, Carolyn Kirk, Brianna Wehrs, Brian Noyes, Lisa Erlandson, Cynthia Gaines, Jennifer Saubermann, Kelly Kleanthous, Josh Eichen, and Cornell Robinson.

Mr. Larkin observed the presence of a quorum of the MBI Board of Directors and called the meeting to order at 10:02 a.m.

Agenda Item I Approval of Minutes

Following a period of brief discussion and upon a motion duly made and seconded, it was VOTED by a roll call vote, Mr. Clark abstaining:

The Board of Directors of the Massachusetts Broadband Institute hereby adopts the Draft Minutes of the Seventy First Meeting of the Board of Directors held on April 7, 2022, by Zoom videoconference, as the formal Minutes thereof.

Agenda Item II Report of the MBI Board of Directors Chairperson- Last Mile Update

Mr. Larkin next provided a Last Mile update, stating great progress was being made. He indicated that MassTech closed out the Broadband Extension Program, and right now of the 44 unserved Last Mile towns 32 towns have fully operational networks and nine towns have networks under construction that are partially lit. He noted challenges related to the WiValley wireless project, which all participating towns are aware of, and that Tolland, Egremont, Monterey, New Braintree, and Royalston, are also working through remaining issues. Mr. Larkin explained that MBI has taken a hands-on oversight approach of the WiValley initiative, and Royalston will be completed by Charter in FY24. Progress is being made. Mr. Clark asked for additional information regarding WiValley issues, which Mr. Baldino agreed to take up offline.

Agenda Item III Massachusetts Broadband Institute Fiscal Year 2023 Operating Plan and Budget (motion item)

Mr. Baldino indicated Mr. Larkin had covered the Last Mile portion of the MBI Fiscal Year 2023 (“FY23”) Operating Plan, and shared the motion that would be put forward after the operating plan and budget presentation was completed. He stated that Mr. Larkin covered the headline for Last Mile, which is that except for Monterey and Royalston all other unserved towns will be completed by the end of FY23, and many of the towns will be done by the end of the 2022 calendar year.

Regarding MBI’s Middle Mile Network (“MassBroadband123” or the “Network”), Mr. Baldino stated that on June 30, 2022, Mass Tech will be publishing a RFP to determine the long-term operational future of MassBroadband123, which will involve soliciting proposals from firms interested in operating the Network. Mr. Baldino indicated that because the Network is eight years old, Mass Tech has been expending state bond funds for capital investments in the Network and has equipment reaching the end of its useful life. Equipment was purchased to support new 100Gbps service offering under a 5 year contract with Charter Communications. We have also been working to enhance municipal network resiliency and redundancy with Westfield Gas & Electric and Local Linx by offering a cost effective solution (a secondary circuit) for Last Mile networks to mitigate risk of local downtime when there is a downstream outage. MBI continues to offer free high-capacity WiFi hotspots in nine Last Mile Towns that do not have a completed project. Hotspots are located at Community Anchor Institutions connected to the Network. MBI is also working with Local Linx to roll out improved pricing for the education sector and FTTP sector customers, which is still being worked on. Increased competitiveness of service offerings has helped to retain existing customers and attract new customers.

Mr. Baldino next discussed the procurement pathway, with the final decision to proceed with a single track procurement focusing on a new Network Operator Agreement, a decision endorsed by the MBI Board as well as the MassTech Executive Committee. MassTech engaged KPMG to develop a roadmap for the disposition of the

Middle Mile Network. MassTech also engaged outside legal counsel to assist with pre-procurement/due diligence activities and the drafting of the RFP and Network Operator Agreement. The pre-procurement phase included market research and legal analysis activities. MassTech/MBI has completed the pre-procurement/due diligence activities and will release a RFP in June to solicit proposals from companies interested in entering into a long-term agreement to operate the Network. The procurement timeline will lead to the selection of a preferred RFP respondent and the execution of a new Network Operator Agreement by the end of December. This will provide an 8-9 month Network transition period, if necessary, leading up to the end of the current Network Operator Agreement in August 2023. Regarding a reference to “preferred bidder” in the “MassBroadband 123 Middle Mile Network Disposition Update” presentation, it was clarified this reference pertains only to the procurement process and the recommendation of the winning bidder, and does not indicate that there is a front runner in the process.

Heading into the next fiscal year Middle Mile expenses funded by \$3.5 million in bond funds will include third party contract costs, MassTech’s costs associated with operation and oversight of MassBroadband123, and capital improvement costs as proposed by Local Linx, the Network Operator, in their capital plans for Calendar Years 2022 and 2023, as approved by MassTech/MBI to enhance the capacity of the Network and continue with equipment refresh. MassTech/MBI intends to work with the Network Operator selected through the RFP on a plan for the next phase of capital investments in the Network. Depending on the outcome of the Network Operator RFP, MassTech/MBI may need to oversee a transition to a new Network Operator. MBI will continue to work with Local Linx, Westfield Gas & Electric, and the Last Mile Towns with municipal fiber-to-the-premise networks to develop and implement cost-effective solutions to provide redundancy and failover to mitigate the impact of network outages.

Next discussed was FY23 budget and staffing. The slide presentation focuses on bond funds, and does not reflect federal funding. There will be a major expansion of MBI staffing, funded through federal funds. There are four MBI positions funded through state bond funds. Because of this, personnel expenses are going down from 2022 to 2023. Professional services costs are also going down. Federal support will be sufficient to support additional personnel through calendar year 2026, and as those programs are completed, depending on what MBI looks like at that time, staffing will be adjusted accordingly. Mr. Baldino then provided a snapshot of the activities MBI will be pursuing in FY23 outside state bond funded activities, including developing and administering programs funded through the American Rescue Plan Act (“ARPA”), State and Local Fiscal Recovery Fund (\$50M funding total), ARPA Capital Projects Fund (\$175M funding total), and the Infrastructure Investment and Jobs Act (“IIJA”) (minimum \$100M funding). The primary focus for FY23 will be on the development of statewide plans for the Digital Equity Act (“DEA”) and Broadband Equity, Access, and Deployment Program (“BEAD”) that will be submitted to the National Telecommunications and Information Administration (“NTIA”) for approval.

Mr. Baldino then discussed the MBI organizational chart, whereby verticals are being established. As discussed, four positions are funded at least in part through state

bond funds, with the to-be-hired positions funded by federal funds. It represents a rethinking of how MBI is structured in order to handle federal funding.

Next discussed were expenditures for Last Mile grants in FY23, with Mr. Baldino stating financial assistance expenditures are tied to achievement of make-ready and construction milestones. Ms. Erlandson then discussed the MBI FY23 funding sources, explaining that the bond funds authorized for MBI would be sufficient to finalize the Last Mile programing, and have been included in the Commonwealth's Capital Investment Plan for FY23 and FY24 to cover the remaining payments. She further explained that the following amounts are available through the FY23 Capital Investment Plan: a total of \$4.05M for Last Mile Projects, of which \$2.65M will be administered by MassTech, and \$1.4M to be administered by the Executive Office of Housing and Economic Development ; and \$6.5M for Middle Mile (to cover allowable expenses- including third-party network costs, capital upgrades, and a cap of 10% of the total amount for MBI operating costs related to the Middle Mile). There are currently \$1.1M in FY23 costs related to the Middle Mile Network that cannot be paid with bond funds for which we are seeking an alternative funding source. Regarding network revenue, Ms. Erlandson explained we expect \$567,000 from fees due under the existing Network Operator Agreement ("NOA"). This amount is based upon Local Linx's projection for calendar year 2022, and payments by Local Linx under the NOA will be transferred by MassTech to the Enterprise Fund and administered pursuant to the Fund Balance Policy. She stated it is important to note that MassTech is responsible for approximately \$1.2 million in third party contract costs as well as other costs associated with oversight of the Network that results in the Network operating at a loss for the Commonwealth.

Next discussed were the operating statements for bond funds. Ms. Erlandson stated we are expecting \$8.6M in state bond funding revenues for Last Mile and Middle Mile, and \$567K of Network Operator revenue, for a total of \$9.2M. She indicated the substantial increase over the FY22 forecast has to do with the projected amount of capital upgrades proposed for the MassBroadband123 Network.

The discussion then turned to the costs of the MassBroadband 123 Network, with Mr. Nicolai stating he questioned if the Network has outlived its usefulness because of technology developments and other trends. He expressed concerns about investing additional state bonds to support the Network in light of his overarching concerns about whether MassTech continuing to own and operate the Network is the most appropriate path forward. Mr. Dubendorf indicated that he would like to see how the market responds to the network operator RFP. Mr. Baldino addressed issues raised by Mr. Nicolai, including the potential impact of 5G. He discussed the due diligence performed by MassTech/MBI with the support of KPMG and their conclusion that there is still significant market potential and a viable role for the Network in meeting the needs of the region, particularly in rural areas. Mr. Baldino indicated that it is MBI's position that the Network does not face technological obsolescence. This is also in line with federal objectives as the Bipartisan Infrastructure Law provides significant funding for middle mile networks across the country. Ms. Charles concurred that the Network will continue to be needed in the foreseeable future.

Following a period of brief discussion, and upon a motion duly made and seconded, it was VOTED by a roll call vote with Mr. Nicolai abstaining:

The Board of Directors of the Massachusetts Broadband Institute (the “Institute”) does hereby approve the Fiscal Year 2023 Budget and Operating Plan for the Institute (the “Plan”), as presented, and does hereby recommend that the Executive Committee of the Board of Directors of the Massachusetts Technology Park Corporation (“MassTech”) take final action to approve the Plan as part of MassTech’s Fiscal Year 2023 consolidated budget. The Plan is approved in full satisfaction of the requirements of subsection (g) of section 6B of Chapter 40J of the Massachusetts General Laws. The Board, subject to final review and approval of the Plan by the Executive Committee of the MassTech Board of Directors, hereby authorizes the Chair to submit the Plan for final approval to the Secretary of Housing and Economic Development and the Secretary of Administration and Finance as required by said subsection (g).

Agenda Item IV MassBroadband123 Middle Mile Network Disposition Update

Mr. Baldino next provide a status update on the MassBroadband123 Network Operator procurement. He stated that since the Last MBI Board of Directors Meeting on April 7, 2022, the MassTech Executive Committee met and concurred with the MBI Board and endorsed the single track procurement approach – MBI will proceed with a RFP soliciting proposals for a new Network Operator Agreement.

MassTech/MBI, with the support of KPMG and outside counsel, concluded the pre-procurement/due diligence work. KPMG completed market research and engagement and provided MassTech/MBI with an analysis of how the RFP and Network Operator Agreement can be structured to generate interest from potential bidders. The RFP and Network Operator Agreement have been drafted and are being finalized. A list of key documents to be provided to potential bidders has been developed and documents are being gathered/prepared to share through a secured data room. MBI sent the latest draft of the RFP and an overview memo to EOHED. When asked about the potential Network Operator Agreement, Mr. Baldino stated that we were in fact drafting a new Network Operator Agreement to be reviewed by potential bidders.

Mr. Baldino then discussed network policy objectives, indicating the following requirements in the RFP will address these objectives: 1) the RFP requires that proposals address their approach to all policy objectives in their Business Plan submission, which will be updated and reviewed annually; 2) the RFP requires a detailed technical proposal and identification of technical capabilities/resources; 3) the RFP requires a transition plan that is further developed with the selected Respondent, and which must include plan for the transition of wholesale customers; 4) the new Network Operator Agreement addresses end user affordability through: (i) a 15% cap on the markup for the cost of constructing extensions/customer drops; and (ii) mandatory comprehensive review of network services

and pricing every three years (this does not prohibit more frequent reviews); 5) monetary penalties assessed under the new Network Operator Agreement are paid into a fund controlled by MBI that can be used to advance the public purposes of the Network; 6) the Network Operator Agreement articulates clear performance requirements and monetary penalties for extended periods of non-compliance; and 7) the new Network Operator Agreement provides greater clarity about ownership of extensions and incentivizes Network Operator capital investments to extend the Network.

Mr. Baldino also discussed market drivers, stating that we have a much more robust set of performance requirements and indicators, the new payment terms have monetary penalties for non-performance, and a termination for convenience provision for MassTech, which was discussed by the members. Also covered were lessons learned over the last eight years, whereby it was noted that the current Network Operator Agreement has no termination for convenience, but the new agreement will. The proposal evaluation process was also discussed. Due to time constraints it was agreed by the members to table the Digital Equity, Broadband Data Mapping, and Broadband Federal Funding Update agenda item, and review incoming federal funding at the next meeting. Mr. Dubendorf asked that digital equity partnerships and payment of municipality debt remain as ongoing agenda items as MBI goes about planning for incoming federal funds.

Upon a motion duly made and seconded, it was unanimously and without abstention voted to adjourn the meeting at 11:34 a.m.

A TRUE COPY

ATTEST: (Secretary)

DATE:

Materials and Exhibits Used at this Meeting:

1. Draft Minutes – April 2, 2022, MBI Board of Directors Meeting
2. Massachusetts Broadband Institute Fiscal Year 2023 Operating Plan and Budget (motion item)
3. MassBroadband 123 Middle Mile Network Disposition Update
4. Operating Statements for Bond Funds