

MINUTES

TWO HUNDRED AND SIXTIETH MEETING

of the

EXECUTIVE COMMITTEE

of the

MASSACHUSETTS TECHNOLOGY PARK CORPORATION

[OPEN SESSION]

December 17, 2018
Boston, Massachusetts

The Two Hundred and Sixtieth Meeting of the Executive Committee of the Board of Directors of the Massachusetts Technology Park Corporation (“Mass Tech Collaborative”) was held on December 17, 2018, at the Mass Tech Collaborative, Two Center Plaza, Suite 200, Boston, Massachusetts, pursuant to notice duly given to the Directors and publicly posted on the Mass Tech Collaborative website with corresponding notice provided to the Office of the Secretary of State.

The following members of the Mass Tech Collaborative Executive Committee were present and participated: Rupa Cornell, Alexandra Drane, Annmarie Levins, Anne Margulies and Pam Reeve.

The following Directors attended the meeting: Julie Chen and Secretary for Administration and Finance Michael Heffernan (represented by Patrick Lynch of the Executive Office for Administration and Finance).

The following Mass Tech Collaborative staff was present: Michael Baldino, Lisa Erlandson, Stephanie Helm, Philip Holahan, Pat Larkin, Holly Lucas Murphy, Brian Noyes, Jennifer Saubermann and Laurance Stuntz.

The following individuals attended the meeting: Chip Bull, Town of Petersham; Helena Fruscio Altsman, Executive Office of Housing and Economic Development; Carolyn Kirk, Executive Office of Housing and Economic Development; Peter Larkin, Executive Office of Housing and Economic Development; and Chris Lynch, Matrix Design Group.

Board Vice Chair Ms. Reeve observed the presence of a quorum of the Executive Committee and called the meeting to order at 2:41 p.m.

Ms. Reeve reviewed the legal requirements governing public participation at an open meeting of a public body. She stated that: (1) After notifying the Chair, any person may make a video or audio recording of an open session of a meeting of a public body, or may transmit the meeting through any medium, subject to reasonable requirements of the Chair as to the number, placement and operation of equipment used so as not to interfere with the conduct of the meeting. At the beginning of the meeting the Chair shall inform other attendees of any recordings. (2) No person shall address a meeting of a public body without permission of the Chair, and all persons shall, at the request of the Chair, be silent. No person shall disrupt the proceedings of a meeting of a public body. If, after clear warning from the Chair, a person continues to disrupt the proceedings, the Chair may order the person to withdraw from the meeting and if the person does not withdraw, the Chair may authorize a constable or other officer to remove the person from the meeting.

Agenda Item I Approval of Minutes

Following a period of brief discussion, and upon a motion duly made and seconded, it was unanimously and without abstention VOTED:

The Executive Committee of the Board of Directors of the Massachusetts Technology Park Corporation, acting on behalf of the full Board pursuant to section three of Chapter Forty J of the General Laws of the Commonwealth, hereby adopts the Draft Minutes of the Two Hundred Fifty Eighth Meeting of the Executive Committee, held on September 11, 2018, in Boston, Massachusetts, as the formal Minutes thereof.

Agenda Item II Report of the Chairperson

The report of the Chair was deferred.

Agenda Item III Report of the Interim Executive Director

Ms. Kirk delivered the report of the Interim Executive Director. She provide a year-end review and highlighted accomplishments that each division of the Mass Tech Collaborative achieved in 2018 as well as the important challenges that each division needs to address going forward. Ms. Reeve expressed her gratitude for Ms. Kirk's service as Interim Executive Director. Ms. Kirk discussed the role of the Executive Committee and the value of these meetings. She emphasized the need to remain nimble and convene the Executive Committee when needed to move important program, activities, and initiatives forward.

Ms. Kirk mentioned that the Massachusetts Broadband Institute ("MBI") Board of Directors, at the last meeting, discussed the level of detail that they would like to see on financial assistance awards. She indicated that the MBI Board of Directors expressed a preference for focusing on the financial and programmatic aspects of the awards and

deferring to executive management on the operational aspects of implementing the awards.

At the request of Ms. Kirk, Mr. Larkin provided a brief MBI status update. An extensive discussion ensued regarding the need to capture success stories from unserved towns that are coming on line with broadband connectivity. Mr. Reeve mentioned the critical nature of broadband access in promoting economic growth, particularly outside of the Boston/Cambridge region. Ms. Cornell concurred and also emphasized the need to “connect the dots” on how broadband connectivity serves as an enabling technology that supports other Mass Tech Collaborative priorities, including digital health, caregiving and cybersecurity.

Agenda Item IV Action Items and Discussion Topics

Mr. Larkin and Mr. Baldino presented a recommendation to approve material modifications to the grant award to the Town of Petersham to support a fiber-to-the-home network that would be constructed, owned and operated by Matrix Design Group. Mr. Larkin noted that the MBI Board of Directors has recommended that the Executive Committee approve the grant award modifications. He explained that the MBI Board of Directors and the MassTech Executive Committee approved an \$880,000 grant award to Petersham in September that included certain provisions, in addition to the Payment in Arrears Guidelines, which were intended to address the downstream operation risk and protect the investment of public funds in the project. He emphasized that (1) MBI was deferring to the Town’s judgement, (2) MBI would rely on certifications submitted by the Town, and (3) MBI did not perform legal, technical or financial due diligence on the project.

Mr. Baldino highlighted the provisions that have received significant push back from the Town: (1) the requirement for a parental guaranty or posting of a performance of financial guaranty bond in the event of an assignment of the agreement by Matrix; and (2) the requirement for Matrix to provide the Town with a security interest in the network equipment and fiber. He also discussed the context for these contractual requirements, including the refusal of Matrix to provide financial statements unless MassTech signed a nondisclosure agreement, Matrix’s plan to assign their responsibilities to a special purpose LLC that will own the network assets, and restrictions on the Town’s contractual rights to purchase the network assets from Matrix. Mr. Baldino clarified that the proposed requirements are in line with other similarly situated broadband projects being supported by MBI and are not prohibited by the Payment in Arrears Guidelines. He also explained the Town’s most recent counterproposals and noted the concerns raised by the Town about having to renegotiate the agreement that the Town executed with Matrix last year.

Following a period of brief discussion, and upon a motion duly made and seconded, it was unanimously VOTED:

The Executive Committee of the Board of Directors of the Massachusetts Technology Park Corporation (“MassTech”), acting pursuant to the

authority delegated under Chapter 40J of the General Laws of the Commonwealth does hereby delegate to the Executive Director the authority to take the following actions, as recommended by the Board of Directors of the Massachusetts Broadband Institute, relative to the grant award to the Town of Petersham (“Town”) under the Flexible Grant Program Notice of Funding Availability for Innovative Approaches to Provide Broadband Service to Unserved Towns in Western Massachusetts (NOFA No. 2018-MBI-01) that was approved by the MBI Board of Directors on September 5, 2018 and the Executive Committee of the MassTech Board of Directors on September 11, 2018:

- 1. Waive or otherwise modify the material grant provision requiring that the Town obtain a security interest from the Matrix Design Group (“Matrix”) in the broadband network fiber, equipment and other assets;**
- 2. Waive or otherwise modify the material grant provision requiring the Town to obtain either a parental guaranty from Matrix or a performance or financial guaranty bond from Matrix that is subject to MassTech’s review and approval in the event that Matrix assigns its obligations and duties under its agreement with the Town to another entity, including but not limited to, a limited liability corporation or other special purpose entity.**

Mr. Baldino presented a recommendation to approve a grant award to WiValley under the Flexible Grant Program. The grant award would support the buildout of a wireless network that would provide internet access for the residents of the Towns of Florida, Hawley, Monroe and Savoy. He noted that the MBI Board of Director has recommended that the Executive Committee approve the proposed grant award to WiValley. Mr. Baldino explained that the four towns have joined together to cooperate and pool their individual MBI allocations into one fund to support this project. He noted that the wireless network would provide 96% coverage across the four towns, although broadband speeds would be available to at least 75% of the households, with the remaining households getting internet access with at least 12 Mbps download and 2 Mbps upload speeds.

Mr. Baldino discussed how the risk for project cost overruns will be shared among the parties. He indicated that MBI would bear the full cost associated with a change order for the installation on Borden Mountain based on the fact that WiValley was unable to access the existing police facility. It is also unclear whether WiValley will have access to an existing DCR tower. In response to a question from Commissioner Peterson, Mr. Baldino clarified that all other change orders will be reviewed and approved by MBI and the towns with MBI covering 50% of the change order value, the towns covering 25% of the change order value and WiValley absorbing the remaining 25% of the change order value. He explained that the exposure of MBI and the towns for additional change orders is capped at \$200,000.

Following a period of brief discussion, and upon a revised motion duly made and seconded, it was unanimously VOTED:

The Executive Committee of the Board of Directors of the Massachusetts Technology Park Corporation (“MassTech”), acting pursuant to the authority delegated under Chapter 40J of the General Laws of the Commonwealth does hereby authorize the MassTech Executive Director to execute a grant agreement with WiValley, Inc. for an award under the Flexible Grant Program Notice of Funding Availability for Innovative Approaches to Provide Broadband Service to Unserved Towns in Western Massachusetts (NOFA No. 2018-MBI-01) and to expend funds in accordance with the following conditions and parameters, as recommended by the Board of Directors of the Massachusetts Broadband Institute:

- 1. The grant award to WiValley shall not exceed \$2,315,461 for a regional wireless broadband network that shall provide access to broadband service to the Towns of Florida, Hawley, Savoy and Monroe (collectively, the “Towns”). The grant amount shall include a contingency fund of up to \$200,000 to cover the cost of change orders approved by the Towns and MBI that are associated with unforeseen project costs incurred by WiValley.**
- 2. The final amount of the grant award shall be subject to the review and approval of the Secretary of the Executive Office of Housing and Economic Development.**
- 3. The grant agreement with WiValley shall generally comport with the summary of material terms and conditions, as presented.**
- 4. The Towns shall be required to execute an Action Plan in a form and with terms approved by the MassTech Executive Director and which shall include a commitment of the Towns to aggregate their respective MBI allocations for the purpose of financing the grant to WiValley.**

The Executive Committee acknowledges that the Executive Director has previously approved a professional services grant of up to \$116,000 to Hawley, the Lead Town designated in writing by the Towns, to be held and expended by the Lead Town for the purpose of engaging technical and legal support to address technical, business and legal issues related to the Town’s involvement in the development and implementation of the WiValley project.

Mr. Larkin and Mr. Baldino explained MBI’s involvement in securing a commitment letter for a standby letter of credit in connection with Westfield Gas and Electric’s winning bid in the Connect America Fund (“CAF”) II reverse auction. Mr. Larkin explained that Westfield Gas and Electric participated in the CAF II reverse auction on behalf of twenty towns that are receiving grants under the EOHED Last Mile

Infrastructure Grant Program. Ms. Kirk indicated that the CAF II funding would total approximately \$10 million and would be used by the participating towns to lower their debt service obligations for municipally-owned broadband networks. It was noted that Westfield indicated that they are legally prohibited from securing the letter of credit and that EOHED has brought in MBI to assist in complying with the CAF II requirement for an irrevocable, standby letter of credit. Mr. Baldino indicated that MBI's most significant role at the outset is to deposit approximately \$1 million in to an account to serve as the initial cash collateral for the letter of credit and that MBI will pay the costs and fees associated with obtaining and maintaining the letter of credit. He also stated that MBI would provide a grant to Westfield Gas and Electric to offset CAF II-related administrative expenses.

Following a period of brief discussion, and upon a motion duly made and seconded, it was unanimously VOTED:

The Executive Committee of the Board of Directors of the Massachusetts Technology Park Corporation (“MassTech”), acting pursuant to the authority delegated under Chapter 40J of the General Laws of the Commonwealth does hereby authorize the MassTech Executive Director to take all necessary steps and actions as recommended by the Board of Directors of the Massachusetts Broadband Institute, including, but not limited to, the execution of requires agreements and instruments and the expenditure of funds, associated with the issuance and maintenance of a standby letter of credit (“LOC”) to be issued by Berkshire Bank in a maximum amount of \$8,000,000 for the benefit of the Federal Communications Commission or its designee, the Universal Service Administrative Company, in connection with the award of Connect America Phase II funds by the FCC to Westfield Gas and Electric (“WG&E”) to support the deployment of broadband infrastructure.

The actions authorized herein shall include, without limitation:

- 1. Executing the LOC in a form that complies with FCC requirements and related documents required by Berkshire Bank in connection with the issuance of the LOC, including a Pledge Agreement and a Reimbursement Agreement (collectively referred to as “Associated LOC Documents”);**
- 2. Establishing a collateral account in amount equal to 100% of the initial face amount of the LOC at the time of issuance plus an excess deposit of 5% of the initial face amount of the LOC, such aggregate amount currently estimated to be approximately \$1,085,000;**
- 3. Payment of costs and fees assigned to MassTech pursuant to the terms of the LOC and Associated LOC Documents;**
- 4. Fulfilling all obligations and responsibilities in order to maintain the LOC for the required time period, including, but**

not limited to, matters associated with renewing the LOC and/or amending the LOC, as may be necessary from time to time; and

5. Executing an agreement with WG&E that sets forth the relative rights, responsibilities and obligations of each party relative to the LOC.

Ms. Erlandson presented proposed revisions to the Fiscal Year 2019 budget for the Mass Tech Collaborative. She explained that the changes to the budget are being driven by: (1) an increase in state appropriation revenue; (2) the arbitrator's final award in the KCST/Axia dispute; and (3) updated assumptions and year-to-date activity. Ms. Erlandson clarified that the arbitrator's award will only have a minor impact on the FY19 budget. Ms. Kirk discussed the increase in MassCyberCenter activities and the Mass Tech Collaborative's effort to align the upcoming budget process with the Administration's priorities.

Ms. Erlandson reviewed the proposed changes in budgeted expenses for each division, with the most significant changes impacting the Innovation Institute, including the MassCyberCenter. She explained the increases in the financial award activity and increased staffing levels. Ms. Erlandson noted the substantial reduction in the utilization of the Innovation Institute's fund balance. Ms. Kirk discussed her general approach to managing fund balances and her goal of avoiding the use of "one-time" funding for recurring expenditures. Ms. Erlandson discussed the projected life span of existing reserves for the Innovation Institute and the Massachusetts eHealth Institute ("MeHI").

Ms. Reeve requested that the Executive Committee convene in executive session to discuss litigation strategy. Ms. Reeve, in her capacity chairing this meeting, stated that she would call for a roll call vote of the Executive Committee to go into executive session to discuss strategy with respect to matters involving ongoing disputes in which the Mass Tech Collaborative is currently involved. She stated that the purpose for meeting in executive session to discuss these matters is that discussion of the Mass Tech Collaborative's strategy with respect to these matters in an open meeting may have a detrimental effect on the litigating position of the Mass Tech Collaborative.

A roll call vote was taken to go into executive session. Ms. Cornell, Ms. Drane, Ms. Levins, Ms. Margulies and Mr. Reeve voted in the affirmative to enter into executive session. All members of the public and staff that were not needed for the litigation strategy discussion left the room.

The meeting proceeded in executive session at 3:48 p.m. The proceedings that occurred in executive session are addressed in a separate set of meeting minutes.

Ms. Reeve, in consultation with the members of the Executive Committee, determined that the executive session should conclude at 4:18 p.m. At that point the meeting proceeded in open session.

Ms. Kirk informed the Executive Committee that Mr. Holahan would be retiring from the Mass Tech Collaborative after 36 years of dedicated service. She noted Mr. Holahan's contributions as a driving force in advancing the Commonwealth's innovation economy. Mr. Holahan reflected on his tenure at the Mass Tech Collaborative and spoke fondly about his past and present colleagues and the Board members that he had the pleasure of working with. Ms. Kirk noted that Mr. Holahan will assist with the transition and help to provide continuity in the coming months.

The litigation-related impacts on the budget were discussed in executive session, thereby completing the discussion of the proposed FY19 budget revisions.

Following a period of brief discussion, and upon a motion duly made and seconded, it was unanimously VOTED:

The Executive Committee of the Board of Directors of the Massachusetts Technology Park Corporation ("MassTech"), acting pursuant to the authority delegated by the Board of Directors, does hereby approve modifications to the Fiscal Year 2019 budget for MassTech, as presented.

Ms. Kirk presented an update on the status of the lease for the Mass Tech Collaborative's office space in Boston and presented a recommendation to delegate authority to the Interim Executive Director to negotiate and execute a lease extension of up to five years in duration. Ms. Kirk explained that the current lease expires in September of 2019 and that the organization faces a decision about extending the existing lease. She noted that the landlord has informed the Mass Tech Collaborative that they plan to start showing the space to prospective tenants if a lease extension is not signed in the near future. Ms. Kirk indicated that the Mass Tech Collaborative will lose leverage in negotiations after the landlord starts actively marketing the space.

Ms. Kirk reviewed the terms of the current lease, Boston office market dynamics, and high level considerations that impact the lease extension determination. She noted that lease rates for office space in Boston have risen considerably in recent years and that the lease rate for comparable quality space will start in the low-to-mid \$50's per square foot. Ms. Kirk reviewed the utilization of the Boston office and noted that the size of the space is appropriate for current and projected future needs. She clarified that the Mass Tech Collaborative has the right to sublease up to 40% of the space, which provides flexibility if our needs or circumstances unexpectedly change in the future. Ms. Erlandson presented a financial analysis of the projected cost of extending our current lease in comparison to moving to comparable space in close proximity to the current Center Plaza location. The analysis showed that the projected cost of extending the lease over a five year term is generally comparable to the cost of moving to another location, and in some instances it would be less expensive.

During the ensuing discussion, Ms. Kirk explained the importance of maintaining an office in close proximity to the State House. At the suggestion of Ms. Drane, staff agreed to reach out to MassChallenge/PULSE to determine whether it was feasible to join

forces in seeking shared office space. Mr. Stuntz discussed MeHI's utilization of the Boston office for events and working group meetings. He also mentioned the value of having access to the large meeting room in the Mezzanine. Mr. Stuntz indicated that Westborough would not be a suitable location for these meetings.

Following a period of brief discussion, and upon a motion duly made and seconded, it was unanimously VOTED:

The Executive Committee of the Board of Directors of the Massachusetts Technology Park Corporation ("MassTech"), acting pursuant to the authority delegated under Chapter 40J of the General Laws of the Commonwealth, does hereby delegate to the Interim Executive Director the authority to negotiate and execute a lease extension with Synergy Investments to continue occupancy of MassTech's current office space at Two Center Plaza, Suite 200, for a term not-to-exceed five years in duration from the current lease termination date of September 30, 2019, and upon such financial terms and conditions as the Interim Executive Director deems appropriate.

There being no other business to discuss and upon a motion duly made and seconded, it was unanimously and without abstention voted to adjourn the meeting at 4:39 p.m.

A TRUE COPY
ATTEST: (Secretary)

DATE:

Materials and Exhibits Used at this Meeting:

1. Draft Minutes – September 11, 2018 Meeting of the Executive Committee
2. Presentation/Approval Items – Massachusetts Broadband Institute Approval Items
 - a. Flexible Grant Program – Material Modifications to Grant Award to the Town of Petersham
 - b. Flexible Grant Program – Grant Award to WiValley for Broadband Service for the Towns of Florida, Hawley, Monroe and Savoy
 - c. Letter of Credit for Westfield Gas and Electric for CAF II Funding
3. Presentation/Approval Item – Revisions to Fiscal Year 2019 Budget
4. Presentation/Approval Item – Boston Office Lease Renewal