

New Jersey Public Broadcasting Authority Meeting of the Members of the Board

July 24, 2023 at 10:00 AM
via Conference Call

MINUTES

Elizabeth Maher Muoio, Chair, Presiding

Minutes of the meeting of the New Jersey Public Broadcasting Authority (“NJPBA” or “Authority”) held by Conference Call on July 24, 2023 at 10:06 a.m.

1. CALL TO ORDER, OPEN PUBLIC MEETINGS ACT STATEMENT AND ROLL CALL

Chair Elizabeth Maher Muoio called the meeting to order. Chair Muoio read the Open Public Meetings Act statement as follows:

In accordance with the provisions of the Open Public Meetings Act of the State of New Jersey, notice of this meeting has been filed with the Office of the Secretary of State, has been posted on the appropriate bulletin boards maintained for such purposes by the Authority, and distributed by press release to two daily newspapers in New Jersey. Notice was made in advance of this meeting.

Chair Muoio then requested a roll call. NJPBA Members present and participating at the meeting were Elizabeth Maher Muoio; Douglas S. Eakeley; and Ford Scudder. Also present and participating were Aaron Binder, Deputy State Treasurer; Kavin Mistry, Deputy Director, Division of Law; Allyson Cofran, Deputy Attorney General, Division of Law; Dorian Smith, Associate Counsel, Governor’s Authorities Unit; Richard Williams, Executive Director, NJPBA; and Nichol R. Gee, Deputy Executive Director, NJPBA (*taking minutes*).

2. RESOLUTION OF THE NEW JERSEY PUBLIC BROADCASTING AUTHORITY APPROVING THE MINUTES OF THE JANUARY 30, 2023 MEETING

RESOLUTION OF THE NEW JERSEY PUBLIC BROADCASTING AUTHORITY APPROVING THE MINUTES OF THE JANUARY 30, 2023 MEETING

WHEREAS, the New Jersey Public Broadcasting Authority (the “Authority”) was created pursuant to the New Jersey Public Broadcasting Authority Act of 1968, L. 1968, c. 405, as amended (the “Original Act”), including by the New Jersey Public Broadcasting

System Transfer Act, L. 2010, c. 104 (the “Transfer Act,” and together with the Original Act, the “Act”); and

WHEREAS, the Members of the Authority desire to approve the minutes of the January 30, 2023 meeting of the Authority, attached hereto as Exhibit A.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NEW JERSEY PUBLIC BROADCASTING AUTHORITY AS FOLLOWS:

1. The Members of the Authority hereby approve the minutes of the January 30, 2023 meeting of the Authority.
2. This resolution shall take effect immediately in accordance with the Act.

Chair Muoio asked for a motion to approve a Resolution of the New Jersey Public Broadcasting Authority Approving the Minutes of the January 30, 2023 Meeting. Mr. Eakeley made a motion to approve the resolution. Mr. Scudder seconded the motion. Chair Muoio asked for a voice vote. The motion to approve the Resolution of the New Jersey Public Broadcasting Authority Approving the Minutes of the January 30, 2023 Meeting was voted upon and approved unanimously.

3. REPORT FROM THE AUDIT COMMITTEE

Chair Muoio asked Mr. Douglas Eakeley, Chair of the EO 122 Evaluation Committee and the Audit Committee, to present his report. Mr. Eakeley stated that the EO 122 Evaluation Committee met on May 1, 2023, to approve a Request for Proposal (“RFP”) for an independent auditor. The RFP was distributed to the 13 accounting firms under State contract for these services. The NJPBA received one bid proposal, which was from Mercadien, P.C. The bid was reviewed by both the EO 122 Evaluation Committee and the Audit Committee. Both Committees recommended that Mercadien, P.C. be engaged as auditor for the Authority.

4. REPORT FROM THE EXECUTIVE DIRECTOR

Chair Muoio asked Executive Director Richard Williams to present his report to the Board. Mr. Williams greeted the Board and announced the recent staff promotions of Dhara Trivedi to Administrative Analyst 3 and Nichol Gee to Deputy Executive Director. The members congratulated the staff.

Mr. Williams reviewed the two budgets the members would be voting on in this meeting. He said the Fiscal Year 2024 operating budget matched the previous year despite increases in costs for labor and materials, and the capital budget was adjusted to reflect current project amounts. He reviewed the projects underway, including the Lawrenceville tower guy wire replacements and the Trenton Operating Center’s power conditioner replacement.

He said the State Capital Commission recommended funding the Authority's \$1.2 million emergency generator replacement project, and that final approvals for that should be received soon.

Mr. Williams stated that the Hulu carriage resolution on the agenda would enable NJPBA's participation in a national agreement negotiated by the Public Broadcasting System ("PBS") on behalf of its member stations for the inclusion of local stations on Hulu's live streaming platform. This would be similar to carriage agreements the NJPBA already had in place with other streaming services.

Mr. Williams said the NJPBA executed 11 tower agreements since the last board meeting. Seven agreements were for equipment changes to existing tower licenses, and there were two license terminations and two new tower licenses granted. He then asked Deputy Executive Director Nichol R. Gee to report on NJPBA's other license agreements and archive activities.

Ms. Gee reported that the digitization of the New Jersey Network Archives was near completion after significant delays due to the sale and subsequent facility relocation of the digitization vendor. She anticipated that the final 10,000 digitized assets would be sent to the Library of Congress American Archive of Public Broadcasting ("AAPB") in the coming winter. Ms. Gee said licensing of assets already included in the AAPB through the Authority's representation agreement with GBH had generated nearly \$48,000.00 in revenue for Fiscal Year 2023. She said this was a significant increase over a typical year due to a single large purchase that was made for a national docuseries. Ms. Gee said the NJPBA had also directly licensed materials for NJ PBS programming about the New Jersey Pinelands and a collection of work at The Zimmerli Museum at Rutgers from Russian-born artists Vitaly Komar and Aleksandr Melamid.

Mr. Williams informed the members that they would soon receive a questionnaire to gather information for the biennial Federal Communications Commission ownership report. He thanked the members for their time and leadership.

5. RESOLUTION OF THE NEW JERSEY PUBLIC BROADCASTING AUTHORITY APPROVING THE FISCAL YEAR 2024 BUDGET

RESOLUTION OF THE NEW JERSEY PUBLIC BROADCASTING AUTHORITY APPROVING THE FISCAL YEAR 2024 BUDGET

WHEREAS, the New Jersey Public Broadcasting Authority (the "Authority") was created pursuant to the New Jersey Public Broadcasting Authority Act of 1968, L. 1968, c. 405, as amended (the "Original Act"), including by the New Jersey Public Broadcasting System Transfer Act, L. 2010, c. 104 (the "Transfer Act," and together with the Original Act, the "Act"); and

WHEREAS, the Members of the Authority are required to approve a budget for

the Authority; and

WHEREAS, the staff of the Authority recommends approval of the budget for the time period beginning on July 1, 2023 through and including June 30, 2024 of the Authority (the “Fiscal Year 2024 Budget”) attached hereto as Exhibit A, authorizing a total expenditure of \$2,347,000 by the Authority during the course of Fiscal Year 2024.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NEW JERSEY PUBLIC BROADCASTING AUTHORITY AS FOLLOWS:

1. The Members of the Authority hereby approve the Fiscal Year 2024 Budget of the Authority, as set forth in Exhibit A attached hereto and hereby authorize the Executive Director of the Authority to take all actions necessary to implement the Fiscal Year 2024 Budget, including the payment of legal fees for Federal Communication Commission special counsel and any costs to effectuate the Transfer Act.

2. In the event the amount eventually appropriated to the Authority as set forth in the Fiscal Year 2024 Appropriations Act differs from the amount set forth in the Fiscal Year 2024 Budget, the Executive Director is directed to prepare an amended Fiscal Year 2024 Budget taking into account such differences for consideration and approval by the Members of the Authority.

3. This resolution shall take effect immediately in accordance with the Act.

Chair Muoio asked for a motion to approve a Resolution of the New Jersey Public Broadcasting Authority Approving the Fiscal Year 2024 Budget. Mr. Eakeley made a motion to approve the resolution. Mr. Scudder seconded the motion. Chair Muoio asked for a roll call vote. The motion to approve the Resolution of the New Jersey Public Broadcasting Authority Approving the Fiscal Year 2024 Budget was voted upon and approved unanimously.

6. RESOLUTION APPROVING AN AMENDED AND RESTATED 2021-2023 CAPITAL BUDGET FOR THE NEW JERSEY PUBLIC BROADCASTING AUTHORITY

**RESOLUTION APPROVING AN AMENDED AND RESTATED
2021-2023 CAPITAL BUDGET
FOR THE NEW JERSEY PUBLIC BROADCASTING AUTHORITY**

WHEREAS, the New Jersey Public Broadcasting Authority (the “Authority”) was created pursuant to the New Jersey Public Broadcasting Authority Act of 1968, L. 1968, c. 405, as amended (the “Original Act”), including by the New Jersey Public Broadcasting System Transfer Act, L. 2010, c. 104 (the “Transfer Act,” and together with the Original Act, the “Act”); and

WHEREAS, under the Programming and Services Agreement dated as of July 1, 2011 (the “Programming and Services Agreement”) by and between the New Jersey Public Broadcasting Authority (“NJPBA”) and Public Media NJ, Inc. (“PMNJ”), PMNJ has agreed to provide programming, including New Jersey-centric news, public affairs and information programming (the “Programming”), on the stations (WNJT(TV) Trenton, WNJB(TV) New Brunswick, WNJN(TV) Montclair, WNJS(TV) Camden, W23EX-D Sussex, W29EV-D Hackettstown, and W27EC-D Belvidere)(collectively, the “Stations”) in the State of New Jersey’s (the “State”) public broadcasting system; and

WHEREAS, the Authority is responsible for keeping in good working order and repair the transmission equipment and facilities, including, but not limited to, the Authority’s microwave hub site at Lawrenceville, New Jersey, transmitters and transmission lines, all necessary auxiliary facilities, and all electrical and utility services (collectively, the “Transmission Facilities”) serving the Stations in the State’s public broadcasting system; and

WHEREAS, the Authority adopted a capital budget for fiscal years 2021 through 2023 (the “2021-2023 Capital Budget”) on July 27, 2022, authorizing a total expenditure of \$3,703,942 by the Authority in fiscal years 2021 through 2023 to undertake certain capital projects; and

WHEREAS, the Authority-approved projects and the amounts budgeted need to be revised based on changes in priorities, funding, and updated costs for the Authority-approved capital projects; and

WHEREAS, Authority staff recommends approval of the Amended and Restated 2021-2023 Capital Budget, attached hereto as Exhibit A, authorizing a total expenditure of \$3,717,896 by the Authority on the capital projects as described in the Amended and Restated 2021-2023 Capital Budget.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NEW JERSEY PUBLIC BROADCASTING AUTHORITY AS FOLLOWS:

1. The Members of the Authority hereby approve the Amended and Restated 2021-2023 Capital Budget of the Authority, as set forth in Exhibit A attached hereto and hereby authorize the Executive Director of the Authority to take all actions necessary to implement the Amended and Restated 2021-2023 Capital Budget, subject to the availability of funds.

2. This resolution shall take effect immediately in accordance with the Act.

Chair Muoio asked for a motion to approve a Resolution Approving an Amended and Restated 2021-2023 Capital Budget for the New Jersey Public Broadcasting Authority. Mr. Scudder made a motion to approve the resolution. Mr. Eakeley seconded the motion. Chair

Muoio asked for a roll call vote. The motion to approve the Resolution Approving an Amended and Restated 2021-2023 Capital Budget for the New Jersey Public Broadcasting Authority was voted upon and approved unanimously.

7. RESOLUTION OF THE NEW JERSEY PUBLIC BROADCASTING AUTHORITY APPROVING THE ENGAGEMENT OF AN INDEPENDENT AUDITOR

RESOLUTION OF THE NEW JERSEY PUBLIC BROADCASTING AUTHORITY APPROVING THE ENGAGEMENT OF AN INDEPENDENT AUDITOR

WHEREAS, the New Jersey Public Broadcasting Authority (the “Authority”) was created pursuant to the New Jersey Public Broadcasting Authority Act of 1968, L. 1968, c. 405, as amended (the “Original Act”), including by the New Jersey Public Broadcasting System Transfer Act, L. 2010, c. 104 (the “Transfer Act,” and together with the Original Act, the “Act”); and

WHEREAS, the Authority is constituted as an instrumentality of the State exercising public and essential governmental functions; and

WHEREAS, the Authority needs to engage the services of an independent auditor to provide independent audit services in connection with the annual audit of the Authority for the fiscal year ending June 30, 2023, with two options to extend the engagement at the sole determination of the Authority for one (1) additional year each in connection with the annual audit of the Authority for the fiscal years ending June 30, 2024 and June 30, 2025 under the same terms and conditions as set forth in the Request for Quote for Independent Audit Services issued by the Authority on May 2, 2023 (the “RFP”); and

WHEREAS, the policies and procedures of the State with regard to the selection of an independent auditor is governed by Executive Order No. 122 (McGreevey 2004) (the “Executive Order”); and

WHEREAS, Section 6 of the Executive Order provides that a competitive selection process conducted by the evaluation committee be utilized in selecting an independent auditor; and

WHEREAS, the RFP was distributed to thirteen (13) accounting firms with responses due on May 16, 2023; and

WHEREAS, in response to the RFP, the Authority received one (1) proposal from a firm seeking to serve as the Authority’s independent auditor and that proposal was evaluated by the evaluation committee established pursuant to Section 6 of the Executive Order; and

WHEREAS, the proposal of Mercadien, P.C. conforms to the requirements of the RFP; and

WHEREAS, the evaluation committee has reviewed the response to the RFP and has reported to the Audit Committee of the Authority concerning its evaluation of the responses to the RFP; and

WHEREAS, the Audit Committee of the Authority has reviewed the report of the evaluation committee and recommends to the Members of the Authority the selection of Mercadien, P.C. to serve as independent auditor in accordance with the terms and conditions of the RFP;

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NEW JERSEY PUBLIC BROADCASTING AUTHORITY AS FOLLOWS:

1. The Authority hereby approves the selection of Mercadien, P.C. to serve as independent auditor for a one (1) year term in connection with the annual audit of the Authority for the fiscal year ending June 30, 2023, with two options to extend the engagement at the sole determination of the Authority for one (1) additional year each in connection with the annual audit of the Authority for the fiscal years ending June 30, 2024 and June 30, 2025.
2. The Authority hereby authorizes its Executive Director to do all such acts and things as may be necessary or desirable in connection with engaging Mercadien, P.C. to serve as independent auditor to the Authority.
3. This Resolution shall take effect upon adoption in accordance with the Act.

Chair Muoio asked for a motion to approve a Resolution of the New Jersey Public Broadcasting Authority Approving the Engagement of an Independent Auditor. Mr. Eakeley made a motion to approve the resolution. Mr. Scudder seconded the motion. Chair Muoio asked for a roll call vote. The motion to approve the Resolution of the New Jersey Public Broadcasting Authority Approving the Engagement of an Independent Auditor was voted upon and approved unanimously.

8. RESOLUTION OF THE NEW JERSEY PUBLIC BROADCASTING AUTHORITY AUTHORIZING A CHANNEL CARRIAGE AGREEMENT WITH HULU

RESOLUTION OF THE NEW JERSEY PUBLIC BROADCASTING AUTHORITY AUTHORIZING A CHANNEL CARRIAGE AGREEMENT WITH HULU

WHEREAS, the New Jersey Public Broadcasting Authority (the “Authority”) was

created pursuant to the New Jersey Public Broadcasting Authority Act of 1968, L. 1968, c. 405, as amended (the “Original Act”), including by the New Jersey Public Broadcasting System Transfer Act, L. 2010, c. 104 (the “Transfer Act,” and together with the Original Act, the “Act”); and

WHEREAS, pursuant to the Transfer Act, the Authority entered into a Programming and Services Agreement (the “PMNJ Agreement”) dated as of July 1, 2011, with Public Media NJ, Inc. (“PMNJ”), a New Jersey not-for-profit corporation; and

WHEREAS, pursuant to the PMNJ Agreement, PMNJ has agreed to provide programming, including New Jersey-centric news, public affairs and information programming (the “Programming”) on the stations WNJT(TV) Trenton, WNJB(TV) New Brunswick, WNJN(TV) Montclair, WNJS(TV) Camden, W23EX-D Sussex, W29EV-D Hackettstown, and W27EC-D Belvidere (collectively, the “Stations”) on the State of New Jersey’s (the “State”) public broadcasting system; and

WHEREAS, pursuant to Section 1.3(b) of the PMNJ Agreement, PMNJ shall administer the Stations’ relationships and agreements with any multichannel video programming distributors, including but not limited to cable systems, SMATV, open video systems and DBS systems (collectively, “MVPDs”), and shall retain any revenues that result from all such relationships and arrangements for use in the development, production, and distribution of the Programming and the performance of the Services (as defined in Article III of the PMNJ Agreement), as provided in the PMNJ Agreement, and notwithstanding anything to the contrary, NJPBA shall take all steps necessary to timely inform all MVPDs that the Stations intend to exercise their mandatory carriage rights for their primary digital channels, and shall cooperate with PMNJ with respect to requests for carriage of the Stations’ multicast channels on MVPD platforms or otherwise; and

WHEREAS, the Stations are operated as full power, non-commercial member stations of the Public Broadcasting Service (“PBS”); and

WHEREAS, PBS has negotiated with Hulu on behalf of all member stations for carriage of the primary signal of all member stations on Hulu + Live TV; and

WHEREAS, the Stations must opt-in for carriage on Hulu + Live TV; and

WHEREAS, PMNJ has requested that NJPBA opt-in for carriage of the Stations on Hulu + Live TV; and

WHEREAS, it is in the Authority’s best interests to enter into an agreement with Hulu to opt-in for carriage of the Stations on Hulu + Live TV;

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NEW JERSEY PUBLIC BROADCASTING AUTHORITY AS FOLLOWS:

1. The Members of the Authority hereby approve the execution and delivery

of any documents necessary to effectuate and implement carriage of the Stations on Hulu + Live TV, and authorize the Executive Director to take any and all action necessary to effectuate and implement an agreement with Hulu, including, but not limited to, execution and delivery of documents in connection therewith.

2. This resolution shall take effect immediately in accordance with the Act.

Chair Muoio asked for a motion to approve a Resolution of the New Jersey Public Broadcasting Authority Authorizing a Channel Carriage Agreement with Hulu. Mr. Scudder made a motion to approve the resolution. Mr. Eakeley seconded the motion. Chair Muoio asked for a roll call vote. The motion to approve the Resolution of the New Jersey Public Broadcasting Authority Authorizing a Channel Carriage Agreement with Hulu was voted upon and approved unanimously.

9. EXECUTIVE SESSION (*IF ANY*)

Chair Muoio asked if there was any need for executive session. Mr. Williams said there was none.

10. OTHER BUSINESS (*IF ANY*)

Chair Muoio asked if there was any other business to discuss. The members demurred.

11. PUBLIC COMMENTS

Chair Muoio asked if there were any members of the public who wanted to make a comment. No members of the public spoke before the Board.

12. ADJOURNMENT

Chair Muoio thanked everyone for their participation and asked for a motion to adjourn the meeting. Mr. Eakeley made a motion to adjourn the meeting. Mr. Scudder seconded the motion. Chair Muoio asked for a voice vote. The motion was voted upon and approved unanimously. The meeting was adjourned at 10:20 a.m.