

KYLE HANLON, Chair  
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Executive Director

**MINUTES OF THE REGIONAL ISSUES COMMITTEE-Approved**

July 19, 2017

*At Berkshire Regional Planning Commission Office  
1 Fenn Street, Ste. 201, Pittsfield, MA 01201*

**I. Call to Order**

The meeting was called to order at 4:00 p.m. by Chair Raftery.

The following Committee Members were present:

Marie Raftery, Stockbridge, Chair  
C.J. Hoss, Pittsfield, Vice Chair  
Bob Bott, Mt. Washington  
Andrew Groff, Williamstown  
Sarah Hudson, Tyringham  
Gwen Miller, Lenox  
James Mullen, New Marlborough

Others Present:

Larysa Bernstein, North Adams City Planner

Staff Present:

Nat Karns, Executive Director

**II. Approval of Minutes of June 21, 2017 Meeting**

A motion was made by Jamie Mullen, seconded by Sarah Hudson, to approve the minutes. Corrections were made to those in attendance. The corrected minutes were approved with one abstention.

**III. Consideration of Draft Letter(s) on Land Use Reform Legislation**

- **H.2420 (Kulik and Peake)**
- **S. 81 (Chandler)**
- **S.94 (Rodrigues)**

The Committee discussed the two draft letters, on H.2420 and S.94. No draft was ready yet on S.81 but the comments will be fairly similar to those on H.2420.

Jamie Mullen moved to approve the letter on H.2420, which was seconded by Sarah Hudson. Sarah questioned whether some of the language was specific enough and Nat responded that this is intended to be a general statement, not legislative language. There are some grammar and editing things that need to be corrected.

Bob Bott had a question about whether site plan review could include lighting and noise, based on a conversation the Mt. Washington Planning Board had with the Attorney General's Office, who indicated that in dealing with their problem with the non-profit camps, that noise and lighting should be dealt with in separate general bylaws not through site plan review. In discussion by committee members, it was felt that especially lighting was very relevant to site plans and should be considered.

The Committee voted unanimously to recommend the draft letter to the Commission, allowing editing changes to correct grammar, etc.

Jamie Mullen moved to approve the draft letter on S.94, which was seconded by Bob Bott. There was a desire to clean-up some of the wording (“laughable” to “unreasonable”) and some other minor editing. Jamie Mullen asked for clarification about the wording in quotes and Nat Karns verified it was lifted directly from the bill. The motion was clarified that it included allowing the minor editing and grammatical corrections.

The vote to recommend the draft letter to the Commission, with the grammar and rewording changes, was unanimous.

These will be on the agenda for the full Commission meeting which will be held on July 27<sup>th</sup>. We are hearing that these bills may be taken up in the fall.

#### **IV. Short-Term Housing Rentals**

The Committee looked at the draft MARPA letter on short-term housing rentals. Nat Karns indicated that he had requested some changes to bring up the issue of the appropriate code requirements which apparently had only been raised in the hearing in the Berkshires. Andrew opined that probably the Cape and Berkshires don’t want these overregulated because they are a part of our heavy tourism economy. Marie asked if there was a definition of what is a “short term rental?” Nat indicated this was something the legislation was trying to define. Is the problem of some homes being bought by investors to simply rent out on a short-term basis and thereby taking more homes out of the reach of working households in the community purely a Lenox problem or more widespread? This is a use that is attractive to younger demographics that we desire to come to the Berkshires. Many of the homes being rented out are owned by middle class people trying to keep their homes. Generally there is a concern with the State over-regulating these and a desire for communities to be able to determine how much or if they wish to regulate them. Does the legislation just focus on properties listed on sites such as AirBNB or include those that are pretty informally rented out? On-line sites like AirBnB are identified in the draft legislation. How would you control this where it is causing normal rental market abnormalities? According to at least one local building commissioner, the state building code requires that all short-term rentals (renting for less than 30 days) require full code compliance and are in the same use group as hotels and inns, which requires meeting fire suppression codes. It was pointed out that many of the art and cultural organizations need to rent properties for less than 30 days at a time for people they are bringing in to work in their productions.

Another somewhat related issue is that with all the hotels and motels being built or proposed in the region, they all need staff, many of whom are not paid well. These less well paid staff have difficulty finding local affordable housing and then the transportation issues create an additional difficulty. About half of the renters in the county are considered rent-burdened. There was a question as to whether the hotels should have to provide either housing directly or pay into mitigation funds for housing, such as local housing trust funds, to provide more local housing for their workers. Reputedly, some staff in hotels are living in totally inadequate spaces, such as utility rooms, or are in very crowded conditions. They cannot find housing opportunities close to their jobs and employers have difficulty in filling jobs due to lack of housing and transportation. The lack of Sunday transportation is especially problematic for hotels and for other tourism sector businesses.

The Committee felt that before any community chose to regulate the short-term rentals, it needed to decide if it really is an issue in their community. The determination that any unit rented for less than 30 days at a time is transient and must be dealt with as such by the building code is a significant problem. For Williamstown, the unofficial rental market, which is supposed to be inspected by the Board of Health, is needed to deal with events like graduation as there simply are not enough regular hotel/motel rooms. Short-term rentals also do not appear to matter much to smaller towns.

Primary issues appear to be that hotels feel they are losing business and a feeling that short-term rentals are a business and should be subject to taxation. Taxing them is a mechanism to obtain local revenue. There did not appear to be an opposition to paying taxes from the people who are renting houses out on a short-term basis. The issues include inspections and code compliance. AirBnB owners are not currently subject to inspections or code compliance in reality (legally perhaps they are but practically it is not happening). Andrew gave an example of a large house in Williamstown that did end up having to install a commercial kitchen in order to be rented out in this market. The owners tried to get a variance from the State Building Appeals Board and where unsuccessful and had to invest \$100,000 to come into compliance. There is some feeling on the committee that overregulation is squashing entrepreneurial activity. There is an impact of short-term rentals, which may be more lucrative, on the long term rental market. The legal protections for long-term renters also are more stringent than for transient rentals, making the shorter term more attractive.

The status of the legislation is not really known but we think it may emerge in the fall. Lenox has a Short-Term Rental Task force which is exploring facts on the ground and interviewing stakeholders and then hopes to adopt

recommendations. Gwen provided a website, TomSlee.net, who if provided a shape file of some geography can generate a spreadsheet of the on-line short-term rentals within that geography. Costs for short-term rentals are pretty competitive and the Committee believes something will emerge legislatively. Whatever the legislation does should allow our communities to craft and tailor what is right for them.

We will get copies of the Governor's legislation as well as the House and Senate bills. The Governor's proposal was a supplement to the budget he filed. A primary driver will be that the State wants more revenue. The taxation will likely be in alignment with the lodging tax that is already in place. We do not know whether MMA has taken a position yet but Gwen will check with Chris Ketchen, her boss, who is on the MMA Board. At the next meeting we will review the common themes that are in the various pieces of legislation.

Nat stated that he had heard that the various code appeals boards are being moved under the purview of the Secretary of Housing & Economic Development, at least partially in response to BRPC's letter on this topic.

#### **V. Next Committee Meeting Date, Time & Topic**

The next meeting will be on Wednesday, August 23<sup>rd</sup> at 4 p.m. The Committee will focus on Short-Term Housing Rental legislation.

Other topics which we may want to take up are the impacts of the shrinking school enrollment, such as what is going to happen to regional school buildings? This has effects county-wide. Budgets keep going up but there are property tax caps. School enrollments keep going down; state reimbursement therefore falls; health insurance costs keep going up. Half of the municipalities are within 5 years of reaching their levy ceilings. 28 municipalities are seeing their total property tax valuations going down. Jamie also thought the Committee might want to review the recent Berkshire Taconic Community Foundation report..

#### **VI. Adjournment**

Upon a motion by CJ Hoss, which was seconded by Sarah Hudson, the meeting was adjourned at 5:03 p.m.

#### **Material Sent or Provided to the Committee**

- Agenda for 7/29/2017 Meeting
- Draft minutes for June 21, 2017 Meeting
- Draft letter on S.94 – An Act Improving Housing Opportunities and the Massachusetts Economy
- Draft letter on H.2420 – An Act Building for the Future of the Commonwealth
- Draft MARPA letter on Short-Term Rental legislation