

**BERKSHIRE REGIONAL PLANNING COMMISSION**  
1 FENN STREET, SUITE 201, PITTSFIELD, MASSACHUSETTS 01201  
TELEPHONE (413) 442-1521 · FAX (413) 442-1523  
[www.berkshireplanning.org](http://www.berkshireplanning.org)

SHEILA IRVIN, Chair  
KYLE HANLON, Vice-Chair  
MARIE RAFTERY, Clerk  
CHARLES P. OGDEN, Treasurer

NATHANIEL W. KARNS, A.I.C.P.  
Executive Director

**MEETING NOTICE**

A meeting of the Berkshire Regional Planning Commission  
will be held on:

Thursday, May 19, 2016 at 7:00 p.m.

**Take Note:** This is the 1<sup>st</sup> 3<sup>rd</sup> Thursday in downtown Pittsfield so finding parking may be an issue. One way to find it is to arrive early and partake in the North Street activities!

**Meeting Material:** All written materials for the meeting are posted on BRPC's website: [www.berkshireplanning.org](http://www.berkshireplanning.org). Click on the calendar date for the meeting and materials available will be listed.

**AGENDA**

**I. Opening (7:00-7:05)**

- A. Call to Order
- B. Roll Call
- C. Approval of Minutes of March 17, 2016 Meeting

**II. Comments from the Public (7:05-7:10)**

*Members of the public may offer comments regarding topics which are on the agenda or other matters which they wish to bring to the Commission's attention. Comments are limited to no more than three minutes and are to be directed to the Commission.*

**III. May 9, 1966- BRPC'S 50<sup>TH</sup> ANNIVERSARY (7:10-7:20)**

*Be here to help blow out the candles on the cake!*

**IV. Delegates' Issues (7:20-7:25)**

*Delegates and Alternates may bring up any issue not on the agenda.*

**V. Ride-Hailing Services (i.e. Uber, Lyft) in the Berkshires (7:25-7:45)**

*The lack of robust public transportation has been a persistent problem in the Berkshires and one which last year's Young Adults Survey and Age-Friendly Surveys helped highlight. Over recent years, private ride-hailing services such as Uber and Lyft, have developed in larger urban areas and are starting to percolate to smaller ones. There has been some effort to dramatically expand ride-hailing services in the Berkshires. Senior Planner Emily Lindsey will brief the Commission on the nature and issues involved with ride-hailing and the status of state legislation to create a regulatory framework.*

(over)

**VI. FY 2017-2021 Transportation Improvement Program (7:45-8:05)**

*Staff is in the middle of developing the updated Transportation Improvement Program for the Berkshires which establishes which projects will receive the limited federal transportation funds in the region. The TIP has been expanded to be a five year program, syncing up with the 5-year timeframe of the State's Capital Investment Plan. There have also been issues with the readiness of one project which had been programmed. Therefore there are multiple options for using the highway funds in the region over the upcoming five years. These options will be presented to the Commission. Your discussion and decision will instruct the BRPC Chair on how to vote when this comes to the Berkshire Metropolitan Planning Organization (MPO) sometime in June.*

**VII. FY 2017 Transportation Unified Planning Work Program (8:05-8:15)**

*Staff is also developing the draft Unified Planning Work Program (UPWP) for the next fiscal year which allocates how our transportation planning funds will be used. We will have a short discussion regarding the planning studies and analyses we expect to include in the UPWP next year in preparation for the upcoming MPO action on this required document.*

**VIII. Senate Bill No. 2144: An Act Promoting the Planning & Development of Sustainable Communities (8:15-8:30)**

*The land use reform legislation which has been kicked around for well over a decade has made some movement this year, making it out of legislative committee, and is expected to be considered at least by the Senate in the coming weeks. The BRPC Regional Issues Committee has reviewed the bill and is recommending comments to be submitted to the General Court. Overall, the recommendation is to support the bill but request some changes.*

**IX. Consideration of BRPC FY 2017 Budget (8:30-8:45)**

**X. Approval of Executive Committee Actions between March 17 and May 5, 2016 (8:45-8:50)**

**XI. Executive Director's Report (8:50-9:00)**

- A. 2017 State Budget and District Local Technical Assistance Funding
- B. Tennessee Gas Pipeline Northeast Energy Direct Project Status
- C. Initial Meeting of Rural Policy Advisory Commission – June 10, 11:30 a.m.-1:30 p.m.  
Franklin Regional Council of Governments, Greenfield
- D. Project to Update Mt. Washington's Parcel Maps
- E. Update of Pittsfield's Open Space & Recreation Plan
- F. Initiation of Health Impact Assessment Project for Egremont
- G. Initiation of Tyringham Pavement Management Assessment
- H. Egremont Complete Streets Project
- I. Initiation of Natural Hazard Mitigation Planning Project for Lanesborough
- J. Other

**XII. Adjournment (9:00)**

Other interested citizens and officials are invited to attend.  
All times listed are estimates of when specific agenda items may be discussed.

City and Town Clerks: Please post this notice pursuant to M.G.L. Chapter 39, Section 23B

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**DRAFT MINUTES OF THE BERKSHIRE REGIONAL PLANNING COMMISSION MEETING**

**Thursday, March 17, 2016**  
**At the Berkshire Regional Planning Commission Office**  
**1 Fenn Street, Suite 201, Pittsfield, MA 01201**

**I. Call to Order**

**A. The meeting is called to order at: 7:05 PM**

Chair Sheila Irvin reminded all per the open meeting law, BRPC records all meetings. Others may record the meeting after informing the chair. Any documents presented must be left with the chair at the meeting.

**B. Introductions/Roll Call**

The following Commission members are present:

Peter Traub – Cheshire Delegate  
Caleb Darby – Dalton Delegate  
Gregory Cherin – Egremont Delegate  
Peter Bluhm – Lee Delegate  
Bob Bott – Mt. Washington Delegate  
Kyle Hanlon – North Adams Delegate  
Sheila Irvin – Pittsfield Delegate  
Sarah Hudson – Tyringham Alternate  
Marilyn Wiley – Washington Delegate  
Roger Bolton – Williamstown Alternate

Staff Present:

Nat Karns – Executive Director  
Tom Matuszko – Assistant Director  
Emily Lindsey – Transportation Senior Planner

Others Present: Kate Maszta – MassDOT  
Andy McKeever – iberkshires staff

**C. Approval of Minutes of Commission Meeting of January 21, 2016**

Bob Bott moved to approve; seconded by Kyle Hanlon. Unanimously approved.

**II. Comments from the Public - None**

**III. Delegates' Issues** – Roger Bolton asked if BRPC's comments in the approval of the FERC license for the CT Expansion in Sandisfield could be circulated. Tom and Nat confirmed FERC did recognize some of comments made by the Environmental Review Committee. Some comments were translated into the Certificate of Needs and Necessity and other comments were dismissed. The summary will be circulated.

Peter Bluhm asked as a follow-up on simplifying the process for design for bridges with the Lt. Governor that was raised by at the Annual Meeting. Nat replied BRPC will inquire with the Lt. Governor's office.

#### **IV. 2016 – Berkshire (County) Regional Planning Commission's 50<sup>th</sup> (Gold) Anniversary**

BRPC has been in existence for 50 years. Nat provided highlights from the first twenty five years:

- Karl Hekler was the Executive Director for the first 25 years.
- BRPC's first issue was the plans for an limited access Route 7 highway from Connecticut to Vermont.
- 1968 Saddleball development, which is now the Greylock Glen in Adams.
- 1969 Charles Kusik of Richmond brought zoning to the cities and towns.
- Early '70s BRPC was heavily involved in water and sewer plans. The formation of the Hoosic Water Quality District, which is a joint operation for Williamstown and North Adams to run a sewage treatment plant.
- 1971 The planning commission was a driving force behind the creation of the Berkshire Housing Development Corp., which has been behind a number of affordable housing developments in the county.
- 1972 A memorandum of agreement was reached between the organization and the state Department of Public Works establishing a regional transportation plan.
- 1973 Charlie Cook was hired as the organization's first transportation planner.
- 1974 The first environmental impact statement for the Pittsfield bypass project was done.
- 1978 BRPC dove into another controversial project. U.S. Rep. Silvio Conte had his hands on what would have been the biggest Urban Development Action Grant in the U.S. to to Pittsfield for the construction of a downtown shopping mall. The land where the McKay Street garage is currently located was eyed for the mall.
- Early '80s is when the Berkshire Regional Transit Authority was instituted and BRPC being formally charged with conducting transportation planning for the county. Also, the first analysis of the state of the regional economy; adopted a Berkshire County Energy Plan — a reaction to the gas crisis of the late 1970s; and the first comprehensive transportation plan for the county.
- 1984 Tyringham was the last of the 32 communities to join BRPC.
- 1990 The Berkshire County Commission and BRPC created the Berkshire Land Use Commission to consider regional land use planning efforts and broader authority of how land is used.
- November 1990, BRPC found itself in the Massachusetts Supreme Judicial Court after filing an amicus brief arguing in favor of the town of Egremont's zoning. A developer planned a 700-unit housing project in town but it didn't fit the town's single zone bylaw. The developer took the town to court arguing that a single zone is invalid. BRPC's role in stepping in to help Egremont was successful with the court upholding the legality of having a single zone zoning bylaw.

#### **V. Economic Development District Designation Update**

Nat gave an update on establishing an Economic Development District (EDD). In September 2015 the Commission approved an application to U.S. Economic Development Administration (EDA). Nat explained the initial discussion at the September meeting regarding draft bylaws for the EDD board which need to be re-worked. BRPC did send a packet to our EDA representative. His initial review said the packet looked good. Once BRPC receives his final comments BRPC will come back to the Commission on the revised bylaws for their review. BRPC will need to work with each of the 32 municipalities. For EDA to consider the district the largest city in the county must sign on. Discussions have taken place with Pittsfield Mayor Tyer. Discussions with the remaining 31 municipalities will take place. Each community will have to sign an approval form showing their agreement to an Economic Development District (EDD) in Berkshire County. BRPC will need a majority of 17 to agree in order to establish the district.

#### **VI. US Bike Route 7 Designation Effort**

Kate Masztal of MassDOT and Emily Lindsey, Transportation Senior Planner, gave a presentation on the designation of US Bike Route 7.

BRPC is asking eight Berkshire communities to become involved in a nationally advertised, interstate bicycle route extending from Long Island Sound to Montreal.

Emily explained the approval from the American Association of State & Highway Transportation Officials would lead to the route being designated as US Bicycle Route 7 and included in the Adventure Cycling

Association's national mapping system. The regional route would generally follow Route 7 through Connecticut, Berkshire County and Vermont, and into Canada.

Designation on the map would lead touring bicyclists and others to the Berkshires, helping our economy.

Emily stated bicycle touring is growing rapidly as a pastime, and many new enthusiasts tend to be in their early 50s with a high income and a healthy amount of disposable income. The average touring rider spends \$100 per day, she said, adding that the average includes areas such as in the Mountain West or elsewhere where camping is a more likely option than an inn or motel.

Four of the eight Berkshire communities along the proposed route, Williamstown, North Adams, Stockbridge and Great Barrington have already approved the application. Pittsfield, Adams, Lenox and Sheffield will be asked to also approve it. There is no cost to the communities.

Any questions about the US Bike Route 7 Designation Effort can be directed to Emily Lindsey at [elindsey@berskhireplanning.org](mailto:elindsey@berskhireplanning.org) or 413-442-1521 ext. 12.

The Commission was asked to endorse the US Bike Route 7 designation.

Kyle Hanlon moved the endorsement of the US Bike Route 7 designation; seconded by Sarah Hudson. Unanimously approved.

## **VII. Reappointments to Berkshire County Regional Housing Authority**

BRPC is the appointing authority for local members to the County Regional Housing Authority. Two board member's terms expire and we have been asked to reappoint them. The two members are Richard Grillon of Washington and Lisa Sloane of Lee. A motion was asked for their re-appointments.

Sarah Hudson moved to approve the re-appointments of two members to the Berkshire County Regional Housing Authority; seconded by Kyle Hanlon. Unanimously approved.

## **VIII. Community Compact Agreements in the Berkshires**

Nat gave the status of Community Compact applications for all 32 municipalities in Berkshire County and District Local Technical Assistance requests BRPC received that relate or could relate to Community Compact Chosen Best Practices. Part of BRPC's requirement for DLTAs is BRPC is to support Community Compact applications. BRPC also received many DLTAs requests that could be Community Compacts but the community did not submit the DLTAs requests as a Community Compact. BRPC is having discussions with individual communities to have the community submit or submit additional best practices under the Community Compact Program. The chart has allowed BRPC to look for opportunities for resources for assistance for the communities either through DLTAs, Community Compacts or both. Communities could receive money or resources for assistance.

## **IX. Consideration of Limited Comments on the State Budget as Proposed by the Governor**

Nat explained BRPC became aware of several budget items that raised some concerns regarding Berkshire County.

- Reducing Public Transit for the rest of the state outside of the MBTA system.
- Environmental Protection and Conservation Agency cuts.
- No Recapitalization of Mass Development's Brownfields Funding
- Cutting the Regional Economic Development Support Funding.

Sarah Hudson moved to approve the revised comments on the State Budget as presented; seconded by Bob Bott. Unanimously approved.

## **X. Approval of Executive Committee Actions between January 21, 2016 and March 17, 2016**

Kyle Hanlon moved to approve all Executive Committee actions between January 21, 2016 and March 17, 2016; seconded by Peter Bluhm. Unanimously approved.

## **XI. Executive Director's Report**

- A. Presentation on the Renewable Wood Heat Sustainable Supply for the Mohawk Trail Woodlands Partnership Project – Thursday, March 24<sup>th</sup>, Franklin Regional Council of Governments, Greenfield**  
Tom explained there are low grade wood products left behind and how to use that wood in a productive ways.
- B. Berkshire Conservation Commission Coalition Meeting – Tuesday, March 29<sup>th</sup>, BRPC**
- C. 5<sup>th</sup> Thursday Dinner for Planning & Zoning Boards – “Designing for Complete Streets” - Thursday, March 31<sup>st</sup>, Mazzeo's Ristorante, Pittsfield**  
There is time to register for this presentation.
- D. Aging in Place Open Forum – Thursday, March 31<sup>st</sup>, Pittsfield and Adams; Friday, April 1<sup>st</sup>, Great Barrington**
- E. 2017 State Budget and District Local Technical Assistance Funding**  
Nat explained the DLTA money is in the Governor's budget at a reduced amount. Nat is requesting calls or letters or emails to be written to our House Representatives to increase the money funded in FY 2017.
- F. Berkshires Tomorrow and Amazon Smile**  
Any purchases through Amazon Smile where our non-profit, Berkshires Tomorrow is designated, will receive 0.5% of the purchase. Nat asked all to designate Berkshires Tomorrow as their designated charity.
- G. MassDOT Complete Streets Application Opened**  
Egremont has approved a local policy by MassDOT and have submitted a scope of work which will enable them to receive funding to develop a complete streets prioritization plan..
- H. Complete Streets Policy Template Available on BRPC Website**
- I. MassDOT Project to Renumber Interstate Exits**  
The Federal Highway Administration has mandated the exit numbers will be changed to mile marker numbers.
- J. Status of Final Decision by EPA on Clean-up of PCBs from the Housatonic River**
- K. Other**

## **XII. Adjournment**

Kyle Hanlon made a motion to adjourn; seconded by Kate Fletcher. Unanimously approved. Adjourned at 9:00 pm.

### Materials distributed or presented during this meeting:

Meeting Agenda  
Draft Meeting Minutes  
Approval of Executive Committee Actions Memo  
Executive Director's Report  
Economic Development District Designation Update  
The Western New England Greenway (WNEG) & US Bicycle Route 7 (USBR 7) Fact Sheet  
Berkshire (County) Regional Planning Commission 1966 – 1993  
Berkshire County Housing Authority Board Re-appointments  
Community Compact Agreement in the Berkshires  
Community Compacts – Berkshire County  
Governor Baker Best Practices (Community Compact)  
Draft Comment Letter FY2017 Budget Proposed by the Governor in H.2  
Invitation to Presentation on the Renewable Wood Heat Sustainable Supply for the Mohawk Trail Woodlands Partnership Project  
Meeting of the Berkshire Conservation Commission Coalition  
5<sup>th</sup> Thursday Dinner “Designing for Complete Streets”  
Aging in Place Open Forum  
Amazon Smile and Berkshires Tomorrow  
Announcing New Complete Streets Funding Program

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**MEMORANDUM**

**TO:** Delegates and Alternates, Berkshire Regional Planning Commission  
**FROM:** Nathaniel W. Karns, AICP, Executive Director  
**DATE:** May 12, 2016  
**SUBJ:** Consideration of Proposed Transportation Improvement Program for FFY 2017-2021

The Commission should consider the Transportation Improvement Program (TIP) for the next five years at its May 19<sup>th</sup> meeting and instruct its Chair how to vote on this important document at the upcoming Berkshire Metropolitan Planning Organization (MPO) meeting. The MPO meeting will be held on June 28<sup>th</sup> at our office. As the lead planning agency for the MPO, the Commission is responsible for developing this document.

The TIP formally determines which transportation projects will receive federal funding for implementation over the next five years. As such, it is an instrument for identifying and constructing regional priorities in the near-term and is one of the requirements of the federally mandated continuing, coordinated and comprehensive (3C) metropolitan planning process.

This year's TIP reflects a continued very challenged funding environment. The funding levels for each year have remained relatively steady over the past several years. There continue to be a significant number of projects requested for which no funding is available, which shows how deep the transportation funding hole continues to be.

The TIP covers highways, congestion mitigation-air quality (CMAQ), highway safety improvement (HSIP), bridges, transportation alternatives program (TAP – formerly Transportation enhancements and some other small programs), and transit projects. Bridges and transit are typically not contentious and we have not yet received the necessary information to include those in the TIP. TAP decisions are now made by the State with no MPO involvement other than needing to program the funds when requested. Development of this year's highway improvement list has been difficult even though the first three years were set in the last year's TIP. Project readiness has been a major concern. MassDOT Planning expressed legitimate concerns about design readiness for the Pittsfield BMC area improvement project for it to remain programmed in FFY 2017. As such, projects in the first three years of the current TIP were rearranged to fill the gap in FFY 2017 from moving this project to a later year. Also, the project cost for Pittsfield West Housatonic Street/Center Street intersection improvements has increased and will require a TIP amendment. This project is programmed in FFY 2016 of the current TIP.

FFY 2017 – 2019

Three scenarios were presented to the MPO at their April 26 meeting covering the first three years of the TIP. Below is a brief overview of these scenarios; additional details can be found in the accompanying attachments. Scenario 1 reflects the same listing of the projects as the current TIP. In Scenario 2, the Pittsfield Berkshire Medical Center area improvements project was moved from FFY 2017 to FFY 2018 which left \$2,548,340 on the table and unallocated, which means the funding could go to another region. Scenario 3 was developed rearranging the projects from the first three years of the TIP and adding a new project (Clarksburg, Route 8) in FFY 2017.

At its last meeting, the Berkshire MPO indicated it preferred to advance Scenario 3 which covers FFY 2017 through 2019. This scenario is as follows. In FFY 2017 the Dalton Housatonic Street project will complete the third and

final year of funding, Williamstown Route 43/ Water Street will start and Clarksburg Route 8 will utilize the remaining highway funds.

In FFY 2018 the North Adams Route 2 & Phelps Avenue intersection improvements is programmed. Lenox Walker Street will utilize the Congestion Mitigation/Air Quality (CMAQ) and Surface Transportation Program (STP) funds. Pittsfield Berkshire Medical Center area improvements project will start utilizing the Highway Safety Improvement Program (HSIP) and remaining STP funds.

In FFY 2019 the Pittsfield Berkshire Medical Center area improvements project will complete utilizing the CMAQ, HSIP and STP funds.

#### FFY 2020 – 2021

The TIP being developed will now span a five year period. Scenarios were developed for the final two future years of the TIP program. Three scenarios were presented to the MPO at the April 26 meeting. All three scenarios have Adams Route 8 programmed in FFY 2020. In FFY 2021 Scenario A has Hinsdale Skyline Trail; Scenario B has Hancock Route 20; and Scenario C has Otis Route 23. At its last meeting, the Berkshire MPO indicated its preference to advance Scenario A for FFY 2020 – 2021.

#### Commission Action

The Commission should direct the Chair whether to support the preferred scenarios; Scenario 3 (FFY 2017 – 2019) and Scenario A (FFY 2020 – 2021) for the proposed FFY 2017 – 2021 Transportation Improvement Program at the MPO meeting.

Attachment:

Scenarios – Berkshire MPO FFY 2017 - 2021 TIP

**Berkshire MPO FFY 2017-2021 TIP Development**

**Scenario 1 (FFY 2016 - 2019)**

<b>FFY 2016 Target</b>					
ID	PROJECT	STP	CMAQ	HSIP	PROJECT TOTAL
602280	Dalton, Housatonic St	4,174,248			4,174,248
607900	Pittsfield, West Housatonic & Center	570,000	1,114,036	355,964	2,040,000
	<b>Total</b>	<b>4,744,248</b>	<b>1,114,036</b>	<b>355,964</b>	<b>6,214,248</b>
	Remaining	1,647	-1,647	0	0
<b>FFY 2017 Target</b>					
ID	PROJECT	STP	CMAQ	HSIP	PROJECT TOTAL
602280	Dalton, Housatonic St	910,591			910,591
607429	North Adams, Route 2 & Phelps Ave	1,230,000			1,230,000
605799	Williamstown, Route 43, Water St	2,700,000			2,700,000
606233	Pittsfield, BMC	1,079,987	1,112,389	355,964	2,548,340
	<b>Total</b>	<b>5,920,578</b>	<b>1,112,389</b>	<b>355,964</b>	<b>7,388,931</b>
	Remaining	0	0	0	0
<b>FFY 2018 Target</b>					
ID	PROJECT	STP	CMAQ	HSIP	PROJECT TOTAL
606233	Pittsfield, BMC	3,595,785	889,911	355,964	4,841,660
	<b>Total</b>	<b>3,595,785</b>	<b>889,911</b>	<b>355,964</b>	<b>4,841,660</b>
	Remaining	2,832,042	0	0	2,832,042
<b>FFY 2019 Target</b>					
ID	PROJECT	STP	CMAQ	HSIP	PROJECT TOTAL
606462	Lenox, Walker St	4,979,816	889,911		5,869,727
	<b>Total</b>	<b>4,979,816</b>	<b>889,911</b>	<b>0</b>	<b>5,869,727</b>
	Remaining	1,448,011	0	355,964	1,803,975

**Scenario 2 (FFY 2016 - 2019)**

<b>FFY 2016 Target</b>					
ID	PROJECT	STP	CMAQ	HSIP	PROJECT TOTAL
602280	Dalton, Housatonic St	4,174,248			4,174,248
607900	Pittsfield, West Housatonic & Center	570,000	1,114,036	355,964	2,040,000
	<b>Total</b>	<b>4,744,248</b>	<b>1,114,036</b>	<b>355,964</b>	<b>6,214,248</b>
	Remaining	1,647	-1,647	0	0
<b>FFY 2017 Target</b>					
ID	PROJECT	STP	CMAQ	HSIP	PROJECT TOTAL
602280	Dalton, Housatonic St	910,591			910,591
607429	North Adams, Route 2 & Phelps Ave	1,230,000			1,230,000
605799	Williamstown, Route 43, Water St	1,587,611	1,112,389		2,700,000
	<b>Total</b>	<b>3,728,202</b>	<b>1,112,389</b>	<b>0</b>	<b>4,840,591</b>
	Remaining	2,192,376	0	355,964	2,548,340
<b>FFY 2018 Target</b>					
ID	PROJECT	STP	CMAQ	HSIP	PROJECT TOTAL
606462	Lenox, Walker St	4,762,418	889,911		5,652,329
606233	Pittsfield, BMC	1,665,409		355,964	2,021,373
	<b>Total</b>	<b>6,427,827</b>	<b>889,911</b>	<b>355,964</b>	<b>7,673,702</b>
	Remaining	0	0	0	0
<b>FFY 2019 Target</b>					
ID	PROJECT	STP	CMAQ	HSIP	PROJECT TOTAL
606233	Pittsfield, BMC	4,418,352	889,911	355,964	5,664,227
	<b>Total</b>	<b>4,418,352</b>	<b>889,911</b>	<b>355,964</b>	<b>5,664,227</b>
	Remaining	2,009,475	0	0	2,009,475

**Scenario 3 (FFY 2016 - 2019)**

<b>FFY 2016 Target</b>					
ID	PROJECT	STP	CMAQ	HSIP	PROJECT TOTAL
602280	Dalton, Housatonic St	4,174,248			4,174,248
607900	Pittsfield, West Housatonic & Center	570,000	1,114,036	355,964	2,040,000
	<b>Total</b>	<b>4,744,248</b>	<b>1,114,036</b>	<b>355,964</b>	<b>6,214,248</b>
	Remaining	1,647	-1,647	0	0
<b>FFY 2017 Target</b>					
ID	PROJECT	STP	CMAQ	HSIP	PROJECT TOTAL
602280	Dalton, Housatonic St	910,591			910,591
605799	Williamstown, Route 43, Water St	2,700,000			2,700,000
608167	Clarksburg, Route 8	3,778,340			3,778,340
	<b>Total</b>	<b>7,388,931</b>	<b>0</b>	<b>0</b>	<b>7,388,931</b>
	Remaining	-1,468,353	1,112,389	355,964	0
<b>FFY 2018 Target</b>					
ID	PROJECT	STP	CMAQ	HSIP	PROJECT TOTAL
607429	North Adams, Route 2 & Phelps Ave	1,280,000			1,280,000
606462	Lenox, Walker St	4,762,418	889,911		5,652,329
606233	Pittsfield, BMC	385,409		355,964	741,373
	<b>Total</b>	<b>6,427,827</b>	<b>889,911</b>	<b>355,964</b>	<b>7,673,702</b>
	Remaining	0	0	0	0
<b>FFY 2019 Target</b>					
ID	PROJECT	STP	CMAQ	HSIP	PROJECT TOTAL
606233	Pittsfield, BMC	5,698,352	889,911	355,964	6,944,227
	<b>Total</b>	<b>5,698,352</b>	<b>889,911</b>	<b>355,964</b>	<b>6,944,227</b>
	Remaining	729,475	0	0	729,475

**Berkshire MPO FFY 2017-2021 TIP Development**

**Scenario A (FFY 2020 & 2021)**

<b>FFY 2020 Target</b>		<b>6,579,146</b>	<b>889,911</b>	<b>355,964</b>	<b>30,410</b>	<b>7,855,431</b>
ID	PROJECT	STP	CMAQ	HSIP	TAP	PROJECT TOTAL
607328	Adams, Route 8	6,718,079	889,911		30,410	<b>7,638,400</b>
	Total	<b>6,718,079</b>	<b>889,911</b>	<b>0</b>	<b>30,410</b>	<b>7,638,400</b>
	Remaining	<b>-138,933</b>	<b>0</b>	<b>355,964</b>	<b>0</b>	<b>217,031</b>
<b>FFY 2021 Target</b>		<b>6,361,340</b>	<b>889,911</b>	<b>355,964</b>	<b>248,216</b>	<b>7,855,431</b>
ID	PROJECT	STP	CMAQ	HSIP	TAP	PROJECT TOTAL
606406	Hinsdale, Skyline Trail	6,380,000				<b>6,380,000</b>
	Total	<b>6,380,000</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>6,380,000</b>
	Remaining	<b>-18,660</b>	<b>889,911</b>	<b>355,964</b>	<b>248,216</b>	<b>1,475,431</b>

**Scenario B (FFY 2020 & 2021)**

<b>FFY 2020 Target</b>		<b>6,579,146</b>	<b>889,911</b>	<b>355,964</b>	<b>30,410</b>	<b>7,855,431</b>
ID	PROJECT	STP	CMAQ	HSIP	TAP	PROJECT TOTAL
607328	Adams, Route 8	6,718,079	889,911		30,410	<b>7,638,400</b>
	Total	<b>6,718,079</b>	<b>889,911</b>	<b>0</b>	<b>30,410</b>	<b>7,638,400</b>
	Remaining	<b>-138,933</b>	<b>0</b>	<b>355,964</b>	<b>0</b>	<b>217,031</b>
<b>FFY 2021 Target</b>		<b>6,361,340</b>	<b>889,911</b>	<b>355,964</b>	<b>248,216</b>	<b>7,855,431</b>
ID	PROJECT	STP	CMAQ	HSIP	TAP	PROJECT TOTAL
606494	Hancock, Route 20	4,939,280				<b>4,939,280</b>
	Total	<b>4,939,280</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>4,939,280</b>
	Remaining	<b>1,422,060</b>	<b>889,911</b>	<b>355,964</b>	<b>248,216</b>	<b>2,916,151</b>

**Scenario C (FFY 2020 & 2021)**

<b>FFY 2020 Target</b>		<b>6,579,146</b>	<b>889,911</b>	<b>355,964</b>	<b>30,410</b>	<b>7,855,431</b>
ID	PROJECT	STP	CMAQ	HSIP	TAP	PROJECT TOTAL
607328	Adams, Route 8	6,718,079	889,911		30,410	<b>7,638,400</b>
	Total	<b>6,718,079</b>	<b>889,911</b>	<b>0</b>	<b>30,410</b>	<b>7,638,400</b>
	Remaining	<b>-138,933</b>	<b>0</b>	<b>355,964</b>	<b>0</b>	<b>217,031</b>
<b>FFY 2021 Target</b>		<b>6,361,340</b>	<b>889,911</b>	<b>355,964</b>	<b>248,216</b>	<b>7,855,431</b>
ID	PROJECT	STP	CMAQ	HSIP	TAP	PROJECT TOTAL
608166	Otis, Route 23	6,148,000				<b>6,148,000</b>
	Total	<b>6,148,000</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>6,148,000</b>
	Remaining	<b>213,340</b>	<b>889,911</b>	<b>355,964</b>	<b>248,216</b>	<b>1,707,431</b>

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SHEILA IRVIN, Chair  
KYLE HANLON, Vice-Chair  
MARIE RAFTERY, Clerk  
CHARLES P. OGDEN, Treasurer

NATHANIEL W. KARNS, A.I.C.P.  
Executive Director

**MEMORANDUM**

**TO:** Delegates and Alternates  
**FROM:** Nathaniel W. Karns, AICP, Executive Director  
**DATE:** May 13, 2016  
**SUBJ:** Senate Bill No. 2144: An Act Promoting the Planning & Development of Sustainable Communities

We are providing comments on the ongoing effort to reform Massachusetts's antiquated and outdated land use laws. The current initiative is in the Senate for consideration, after having been reported out favorably by the Joint Legislative Committee on Community Development and Small Businesses. The Regional Issues Committee has reviewed the current bill and developed a comment letter for consideration by the Commission.

Attached are:

- 1) A two page summary articulating why the bill is needed and what it is expected to accomplish
- 2) A two page memo from Senior Planner Brian Domina on the bill (the bill numbers changed during the process so don't be confused by that). This memo focuses on the issues we had with previous versions of this legislation last year can provides comments on the sections of concern.
- 3) A five page memorandum from attorney's associated with the groups most strongly advocating on the bill's behalf which provides a summary.

We are not attaching the bill itself because it runs to 72 pages. However, it can be found on the General Court's website at <https://malegislature.gov/Bills/189/Senate/S2144>

The Regional Issues Committee met on May 11<sup>th</sup> and recommends for approval the attached letter to the House and Senate leadership and the Berkshire delegation. The Committee is in support of the bill overall but would like to see a relative handful of changes in the legislation before it is enacted.

Attachments: (4)  
Draft Letter recommended by the BRPC Regional Issues Committee  
Two page summary  
Senior Planner Brian Domina memo dated March 3, 2016  
Jay Wickersham and Robert Richie memo dated July 8, 2015

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Executive Director

May 13, 2016

The Honorable Robert A. DeLeo, Speaker  
Massachusetts House of Representatives  
State House, Room 356  
Boston, MA 02133

The Honorable Stanley C. Rosenberg, President  
Massachusetts Senate  
State House, Suite 332  
Boston, MA 02133

**Re: Senate No. 2144: An Act Promoting the Planning and Development of Sustainable Communities.**

Dear Speaker DeLeo & President Rosenberg:

The Berkshire Regional Planning Commission (BRPC), which serves the thirty-two cities and towns in Berkshire County, wishes to indicate its overall support for the passage of S. 4122. The Commonwealth's land use laws are some of the oldest and most outdated land use laws in the nation. The existing land use laws discourage smart growth and deprive cities and towns of the modern zoning and planning tools to address twenty-first century challenges. The proposed bill will modernize the zoning, planning and subdivision laws of the Commonwealth. Comprehensive land use reform legislation has been introduced and discussed by the legislature for nearly a decade without final action. We hope the legislature will not allow this critically important piece of legislation to lapse again, but will instead push it through to final action before the adjournment of this formal session. In anticipation of final action being taken, BRPC provides the following comments to the legislature for consideration.

BRPC supports most aspects of the proposed legislation. Changes are urgently needed to eliminate the Approval Not Required (ANR) process and to adopt a balancing test for the issuance of variances and we support those. The proposed changes to the vested rights afforded by the Zoning Act and the adoption of a standard site plan review process are positive changes. The reaffirmation of a municipality's authority to impose development impact fees and adopt inclusionary zoning are also important components of the legislation that BRPC supports. The proposed legislation also contains a number of less significant changes that BRPC supports. While the proposed legislation is a significant improvement over the existing land use laws, BRPC respectfully requests that the legislature consider the following concerns.

- The supermajority vote required for a special permit should remain and a local option be provided to communities who wish to require less than a supermajority vote for special permits. (Section 15)
- The authority to grant variances should remain with the Zoning Board of Appeals and not be expanded to the other boards identified in the proposed legislation as a "Permit Granting Authority". (Section 1)

- The proposed section on the required contents of a master plan is overly prescriptive and will likely have the effect of discouraging communities from adopting master plans. The language should be less prescriptive to allow each community more flexibility in tailoring the contents of a master plan to its own unique situation. (Section 27)
- A requirement that a master plan be adopted by a city or town's legislative body will likely lead to the development of overly broad and non-specific master plans in order to appease a majority of the voters for adoption. The approval of a master plan should remain with the planning board after a duly noticed public hearing. (Section 27)
- The decision to implement consolidated permitting should be a local option and not at the option of the applicant. In addition, the failure of a board or commission's hearing officer to attend the joint public hearing should not be grounds for the constructive approval for that board/commission's area of purview of a permit. (Section 25)
- The amendment to the legislation proposed by the Joint Committee on Community Development and Small Business should be removed from the legislation. The amendment allows land that qualifies for preferential tax treatment based on its conservation value (Chapter 61 and Chapter 61A) to be divided using the Approval Not Required (ANR) process. The ANR process is available to divide such land even if a community has replaced the ANR process with a minor subdivision process. Chapter 61 and Chapter 61A land is granted preferential tax status because the land has inherent conservation value that the Commonwealth has determined is worthy of protection. The proposed amendment runs counter to the Commonwealth's conservation values. The proposed amendment will make it easier for Chapter 61 and Chapter 61A lands to be divided and developed compared to other land. The proposed amendment makes little sense and can only be explained as financial protectionism of a certain constituency (agriculture and forestry). (Section 31)
- The Planning Ahead for Growth Act (PAGA) should be removed from the legislation. The PAGA will disproportionately negatively impact small municipalities. The requirements to become a certified community are not appropriate for smaller municipalities and because of this many smaller municipalities will likely not pursue the certification. Smaller municipalities may also not have the staff capacity to pursue the PAGA certification. The PAGA disadvantages these smaller municipalities by withholding key planning and zoning tools and giving preference in state discretionary funds to municipalities that achieve PAGA certification. The PAGA is fundamentally flawed in that it withholds planning and zoning tools that should be available to all municipalities regardless of PAGA certification. Every municipality should have every planning and zoning tool at its disposal and have a fair shot at pursuing state discretionary funds. (Section 26)
- The proposed legislation requires municipalities and regional planning agencies to take action to comply with and/or implement the proposed legislation without providing any financial resources to do so. The proposed legislation should include funding for municipalities and regional planning agencies.

We hope that the legislature will consider these concerns and expeditiously release a modified bill for favorable consideration by the necessary committees and the full House and the Senate. We encourage the legislature to take action and free the cities and towns of the Commonwealth from these outdated and convoluted laws that encourage inappropriate development and prevent municipalities from exercising the full extent of their modern planning and zoning tools.

Sincerely,

Nathaniel W. Karns, AICP

Executive Director

- Cc. The Honorable Karen E. Spilka, Chair, Senate Ways and Means Committee
- The Honorable Brian S. Dempsey, Chair, House Ways and Means Committee
- The Honorable Benjamin B. Downing, Senator, Berkshire, Hampshire, Franklin & Hampden District
- The Honorable Gailann Cariddi, Representative, 1st Berkshire District
- The Honorable Paul Mark, Representative, 2nd Berkshire District
- The Honorable Tricia Farley-Bouvier, Representative, 3rd Berkshire District
- The Honorable Smitty Pignatelli, Representative, 4th Berkshire District
- Mr. Geoffrey C. Beckwith, Executive Director, Massachusetts Municipal Association

DRAFT

## Zoning Reform

# S 122: An Act Promoting the Planning and Development of Sustainable Communities

Sponsored by Senator Daniel Wolf and Representative Stephen Kulik  
September 2015

### Why we need to reform our planning, zoning, and subdivision laws

For us to maintain our high quality of life and competitive economy, we need to be strategic about what and where we build. The decisions we make today will affect where we live, work, and play for generations to come.

Current development trends are not protecting the quality of life in our communities and they are not providing the foundation for long term economic development:

- We are building fewer than half of the homes we need annually to meet our current needs and to prevent the loss of workers to other states. Meanwhile, combined housing and transportation costs are eating up a larger share of family budgets – averaging 50%.
- Too many development proposals become unpredictable, costly battles over their impacts. Massachusetts does not have a state legal framework for many of the modern zoning tools regularly used in other states, forcing cities and towns to create their own, varying versions.
- More residents want to live in walkable neighborhoods; these neighborhoods make a difference for public health. Residents are 65% more likely to walk in a neighborhood with sidewalks, reducing the risk of obesity and making our communities more livable.
- Every day, thirteen acres of forests and farmland are being lost to low-density, residential sprawl, which generates more car trips and requires more infrastructure.



### What S.122 would do

This legislation will update our state's outdated zoning, subdivision, and planning laws. These changes will:

- **Promote economic prosperity** by encouraging more housing and mixed-use developments;
- **Enhance quality of life** by providing modern planning and zoning tools to our municipalities;
- **Encourage healthy communities and protect our landscapes** by promoting land conservation and walkable places.
- **Incentivize communities to plan ahead for growth** through adopting local smart growth ordinances.

The legislation amends Chapter 40A (zoning), Chapter 81D (master planning), and Chapter 41 (subdivision). In addition, it proposes a new "Planning Ahead for Growth" section as Chapter 40Y.

## Summary of Key Provisions

### Improve the permitting process to create more homes & businesses

- Consolidated permitting allows local boards to receive common information and brings them together for a joint hearing at the beginning of a project review.
- Establishes reasonable, standardized zoning protections for building permits and subdivision plans (2 and 8 years, respectively).
- Early opportunity for neutral facilitator to resolve land-use disputes at the municipal level.
- Streamlined appeals will expedite resolution of disputes and lower development costs.
- Improves special permits by reducing their approval from a super-majority to a simple majority (with local option to increase); increasing their duration to a minimum of three years; and establishing a process for further extending them if necessary.

### Enhance quality of life through modern planning and zoning tools

- Authorizes a rational process for impact fees from development to help fund local infrastructure needed to accommodate new growth.
- Variance reforms will facilitate small-scale residential projects that don't harm the neighborhood.
- Local master plans will become less difficult and less costly to create.
- Project development rights become protected when a property owner submits a definitive plan, not an imprecise preliminary plan.

### Preserve open space, discourage sprawl, & promote public health

- Authorizes and encourages modern zoning tools like cluster development, natural resource protection zoning, and transfer of development rights.
- Communities can choose to regulate so-called Approval-Not-Required subdivisions through an expedited subdivision review process.
- The bill establishes public health as a purpose of master planning and includes notice of development projects to local health boards.



### Local Opt-In: Planning Ahead for Growth

This section encourages communities to make four specific zoning changes that allow compact housing and economic development and protect open space and water quality. In exchange for taking these smart growth actions, municipalities would receive:

- Preference for state infrastructure funding and discretionary grants;
- Broader allowable uses of development impact fees for capital facilities such as schools & libraries;
- Authority to adopt very low density natural resource protection zones (5 or more acres per dwelling unit) to protect land of high natural resource value.

*For more information, please contact Eric Hove at the Metropolitan Area Planning Council (MAPC) at (617) 933-0737; [ehove@mapc.org](mailto:ehove@mapc.org) or Larry Field at the Massachusetts Smart Growth Alliance (617) 263-7470; [larry@ma-smartgrowth.org](mailto:larry@ma-smartgrowth.org)*



# MEMORANDUM

**To:** Regional Issues Committee  
**From:** Brian Domina, Senior Planner  
**Date:** March 3, 2106  
**Re:** S. 122 – Zoning Reform Bill

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I have reviewed the Committee’s previous comments and the new zoning reform bill S. 122 and find that most of the major concerns that the Committee had in its past review of the legislation remain. The remaining concerns are as follows:

Topic	S. 122 Section Number	Comment
Zoning Amendment	5	This is made more complicated with a requirement that a less than supermajority vote "for a specific zoning amendment" can only be allowed if planning board finds the amendment is "not inconsistent with a master plan" and that the amendment is not subject to a landowner protest.
Special Permits	15	The supermajority vote for special permits should be retained, with provision for a local option to allow special permits by simple majority, with such change requiring a supermajority vote.
Consolidated Permitting	25	<b>The use of a consolidated permitting process should be at local option or removed from the legislation.</b> Use of the consolidated permit process should not be solely at the discretion of the applicant.
Planning Ahead for Growth Act	26	<b>This section should be removed from the legislation.</b> The Committee appreciates that this section is at local option; however, it believes that many of the county’s communities (and most rural communities) will not have the resources to adopt and implement these provisions and thus will be negatively impacted.  One important concern is that “certified” communities will have a preference over “non-certified” communities when competing for state discretionary funding. A second concern is that natural resources protection zoning is reserved for certified communities yet most applicable and useful in more rural settings; however these communities have the least resources and inclination to work to become certified communities. In fact, given their very rural nature, promoting more housing development within rural certified communities is contrary to “smart growth” principles.

		The Commission appreciates the need to incentivize communities to act, but the incentives provided should not negatively impact other communities who have not received “certified” status nor should land use tools be withheld from certain communities as a way to incentivize others.
Master Planning	27	<p><b>This section receives qualified support (if issues discussed herein are addressed).</b> The Committee believes the new language is overly detailed and too directive, with the language on sections in all cases expanding from a simple statement to an entire, often lengthy, paragraph that was essentially current state priorities. The overly prescriptive nature of the extensive language would actually be a disincentive for communities to develop master plans.</p> <p>The Committee believes that a greater focus should be placed on climate change.</p> <p>The requirement for legislative body approval of a master plan will lead to a stripped down and generalized plan since that would be all that could get approved by a city council or at a town meeting.</p> <p>Where is the funding for the assessment against a regional plan or, for that matter, funding for regional plans?</p>
Appeals	41, 42	<p><b>The Committee does not support these changes.</b> The Committee feels that much clearer language is needed in these sections. It is not clear what is broken that needs fixing. There is a lack of clarity in the language and it appears that it would impose serious questions that we really don't understand. The Committee is comfortable with the rights of appeal as they currently stand. One important change that BRPC feels is necessary is that the legislature provide additional resources to the Land Court to enable it to hold additional sessions throughout the Commonwealth, particularly in the Berkshires.</p>

While many issues still remain with the current version of the zoning reform bill, a number of comments from the Committee have been incorporated into the bill including:

- The removal of a provision that would have required that multi-family uses in non-residentially zoned areas to meet certain criteria.
- In relation to consolidated permitting, the time for the joint Board to hold a public hearing has been switched from 45 days to 65 days.
- The allowable use of open space as part of a subdivision now includes environmental conservation.
- The extension for a special permit now requires a public hearing as recommended by the Committee, unless the local ordinance or bylaw states otherwise.

## MEMORANDUM

TO: All Interested Parties

FROM: Jay Wickersham, Noble & Wickersham LLP, and Robert Richie, Massachusetts Municipal Lawyers Association, for the Massachusetts Smart Growth Alliance and Zoning Reform Working Group

DATE: July 8, 2015

RE: Summary of zoning reform bill: S. 122, as filed by Senator Daniel Wolf and Representative Stephen Kulik

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### **Provisions of the zoning reform bill**

#### ***Chapters 40A, 40X, and 41: Reforms applicable to all communities:***

**1) Allowable Zoning Techniques.** The bill adds or expands definitions and authorizations for many useful zoning techniques, including cluster development, transfer of development rights, inclusionary zoning, natural resource protection zoning, and form-based codes. [Bill sections 1, 2 and 3]

**2) Special Permits.** Three significant changes are proposed, all of which would reduce the burden on local boards and applicants. The required vote is reduced from a super-majority to a simple majority (with local option to increase); the duration of a special permit is extended from a maximum of two years to a minimum of three years; and a process for extending a permit is established. [Bill sections 13, 14, 15, 16, 17, and 18]

**3) Site Plan Review.** Many communities already employ a form of site plan review (SPR), but because there are no explicit standards in the Zoning Act, uncertainties have plagued the SPR process. The bill adds a new section that standardizes SPR as follows: (1) decisions must be made within 95 days, with a public hearing optional; (2) when SPR overlaps with a special permit, the reviews must coincide; (3) approval is by simple majority; (4) approvals may be subject to conditions, including off-site mitigation in limited circumstances only; (5) duration shall be a minimum of two years; and (6) appeals shall be based on the existing record, not new evidence. [Bill section 19]

**4) Variances.** Variances offer a “relief valve” from zoning, since no local code can anticipate difficulties with every piece of land or personal circumstance. Variances are particularly helpful for small-scale residential projects involving renovations, additions, or infill development. But the current Zoning Act is overly restrictive for landowners and towns. As a result, some zoning boards approve almost no variances, while others grant them liberally but illegally. This section entirely rewrites the current variance provisions; it sets reasonable procedures and criteria while still maintaining a community’s discretion to condition or deny a variance, including on grounds

of “self-created” hardship. The time within which a variance must be used is extended from one to two years, with one-year extensions allowed. [Bill section 23]

**5) Vested Rights.** It is appropriate and fair that when zoning changes, the law should protect development projects already in the pipeline, where a substantial investment of time and money has been made. In the Zoning Act, however, some of these protections are excessively protective, while others are unreasonably limited. The vesting loopholes for subdivisions and Approval Not Required (ANR) plans undermine thoughtful local planning and zoning modifications. Meanwhile, the vesting periods for projects seeking a building permit or special permit are difficult to obtain and unrealistically short. This section has been rewritten, based on extensive research into vested rights statutes in use around the country and American Planning Association model laws, to provide reasonable and standardized protections for development projects requiring building permits, special permits, and subdivision plans. The bill eliminates two vesting loopholes and modifies the third. The vesting periods for building permits and special permits are appropriately extended. [Bill sections 6, 7, 8, 9, 10, 11, and 12]

- Subdivision Plan Freeze: Only the proposed project is protected against zoning changes, rather than the land (as under current law). An applicant must apply for a definitive subdivision plan before the first published notice of public hearing on a proposed zoning change, and must ultimately obtain approval. But the overall length of the subdivision freeze has been maintained at eight years, unless a community seeks “opt-in” status under the new Chapter 40Y.
- ANR Plan Freeze: Under current law, the endorsement of a simple ANR plan for lots fronting on a public way – even a perimeter plan or a plan showing only a slight line change to an existing parcel – freezes any zoning change for three years. This device was recently considered in the City of Northampton to preserve rights to build a porn store. It is eliminated.
- Three Lots in Common Ownership Dimensional Freeze: Up to three pre-existing adjoining lots under common ownership are protected against any zoning dimensional changes for five years after any zoning change. Reportedly, this was added by a legislator in the 1970s at the request of a constituent, to protect the constituent’s land! It has vexed cities and towns for over 35 years. It is eliminated.
- Obtainable, Extended Freezes for Special Permits and Building Permits. All developments require building permits and most large projects require special permits – yet under current law, both the duration of such permits and the ability to protect against zoning changes, is unrealistically limited. The bill liberalizes access to zoning freeze protection; an applicant must apply for a building or special permit before the first published notice of a public hearing on a proposed zoning change. The duration and vesting period for building permits is increased from six months to two years, and for special permits from two to three years.

**6) Development Impact Fees.** Rationally-based impact fees are predictable for developers and can reduce local opposition to some development projects, because there is confidence that projects will bear their fair share of impacts on public facilities. This allows more types of development to be permitted as-of-right instead of undergoing the lengthy and costly special permit process. Despite being a commonly-used regulatory tool across the country, impact fees

are rarely used in Massachusetts due to troublesome case law and no mention in statute. This new section in the Zoning Act authorizes development impact fees, based on in-state models (Medford and Cape Cod Commission), prevailing national practice, and federal case law. The bill clearly lists the public capital facilities for which impact fees may be assessed. Affordable housing projects and agriculture are exempted from impact fees. Fees must be paid into a dedicated trust fund and used within 10 years. [Bill section 20]

**7) Inclusionary Zoning.** Inclusionary housing programs that require the creation of affordable housing in development projects can increase diversity in local housing opportunities and help to meet local requirements under Chapter 40B. Although it is used by communities around the state, this essential smart growth tool is not currently formalized in the Zoning Act. This new section is based on best current practices. Off-site units, land dedication, or funds may also be provided in lieu of on-site dwelling units. The upper limit of affordability is households earning up to 120% of the Area Median Income (AMI). Inclusionary zoning may require some or all of the affordable units to be eligible under Chapter 40B (i.e., units limited to households with incomes up to 80% of AMI). Affordable units must be price-restricted for no less than 30 years. [Bill section 21]

#### **8) Master Planning.**

- Contents of Master Plans. The section is rewritten to accomplish the following objectives: (1) plan elements reflect the language of the state’s Sustainable Development Principles, including public health considerations; (2) all communities must complete five required elements (goals and objectives, housing, natural resources and energy management, land use and zoning, and implementation), but are free to choose among the other seven optional elements; (3) superfluous data collection is discouraged; (4) all elements must be assessed against a regional plan, if any; (5) a public hearing is required before adoption; and (6) the plan must be adopted by the local planning board and the local legislative body. [Bill section 27]
- Legal Effect of Master Plans. Current Massachusetts law does not require zoning to be consistent with a local master plan. As a result, many municipalities have not created or updated their plans. The bill makes master plans an option for municipalities. But to incentivize thoughtful local planning, the bill also states that if local zoning is challenged in a lawsuit, and the court finds that the challenged provision is not inconsistent with a local master plan that has been certified by the applicable regional planning agency, then the provision shall be deemed to serve a public purpose. [Bill section 43]

**9) Notice to Boards of Health.** Although local boards of health receive notices of public hearing for subdivision projects, under the current Zoning Act they do not receive notices of projects seeking zoning approvals. This has been changed, so that boards of health will receive notice and be able to comment on variances, site plan reviews, special permits, and other approvals. [Bill section 24]

## 10) Other Procedural Reforms.

- Land Use Dispute Avoidance. Although informal dispute resolution processes may occur now, there is no set process laid out in the Zoning Act, and no relief from either legal “discovery” or the open meeting law. This new section in the Zoning Act offers an off-line avenue for applicants, municipal officials, and the public to work with a neutral facilitator to try to resolve difficulties in a prospective development project, so that the formal approval process may later be successful for all. [Bill section 22]
- Appeals. Resolving appeals under current law is often expensive and slow, undermining the predictability and authority of the local process for officials, developers, and residents alike. The bill streamlines the appeals language for site plan review, special permits, and subdivisions; provides for a record-based decision (rather than a decision based on new evidence) by the court evaluating a local decision; and expands the jurisdiction of the Land Court permit session to include residential, commercial, industrial, and mixed-use projects. [Bill sections 19, 39, 41, 42, and 44]
- Zoning Amendments. The current super-majority requirement (two-thirds) to adopt or amend local zoning is an undue burden for Massachusetts cities and towns, one that is unique in the U.S. The bill would allow communities to lower the vote from the super-majority default anywhere down to a simple majority. And the lower threshold would be used for zoning amendments that the planning board finds to be consistent with a master plan, if any, and that are not subject to a landowner protest. Once reduced, the vote majority may subsequently be raised or lowered by the majority then in place. Any changes do not become effective until six months have passed. [Bill sections 4 and 5]

**11) Consolidated Permitting.** Development proposals often need multiple local permits from multiple local boards, each with its own substantive and procedural requirements. The new Chapter 40X would allow applicants for larger, more complex projects (at least 25,000 square feet or 25 dwelling units) to employ a consolidated permitting process. This would ensure that local boards receive common information about the project and that they have the opportunity to bring all decision-making bodies together at the beginning of a project review at a consolidated hearing. More efficient reviews could result, benefitting all parties to the development review process. At the same time, each board would retain the authority to make an independent decision in accordance with its own standards. [Bill sections 25 and 40]

**12) Minor Subdivisions and Approval Not Required (ANR) Projects.** Current Massachusetts law prevents communities from effectively planning or regulating the development of roadside land, through the uniquely permissive ANR process. No other state law allows unregulated roadside development in this fashion. At the same time, small residential subdivisions with a new road must undergo the same process as those with 50 or 100 lots. The bill permits a community to eliminate the ANR loophole if it creates a less onerous minor subdivision review process for projects with six or fewer lots. A separate procedure has been developed to address minor lot line changes. [Bill sections 28, 29, 30, 31, 34, 36, 37, and 38]

- ANR Reform. Communities wishing to retain ANR may do nothing and continue, but those desiring more control of these land divisions may now regulate them as minor

subdivisions. However, until a planning board adopts rules and regulations for minor subdivision review, the old ANR process remains in effect.

- Minor Subdivisions. Minor subdivisions must be defined under local regulations to include up to six new lots (a community can raise the threshold). The time limit for review is either 65 or 95 days, compared with 135 days for a full subdivision. A public hearing is optional. Standards may not exceed those for regular subdivisions, and requirements for roadway width may typically not exceed 22 feet.
- Lot Line Changes. Because the ANR device is routinely used to make small changes to property lines, a suitable replacement mechanism was needed. A new section permits the recording of plans for minor lot line changes, subject to specific conditions.

**13) Subdivisions.** The bill makes two other changes to the Subdivision Control Law:

- Subdivision Roadway Standards. Many local subdivision regulations require unjustifiably excessive roadway standards. These may adversely affect aesthetics, increase stormwater runoff, and inflate housing costs by imposing undue costs on the developer. The bill establishes a rebuttable presumption that roadway standards exceeding those applicable to the construction or “reconstruction” of publicly-financed roadways are excessive, while defining a “safe harbor” for roadway widths up to 24 feet. [Bill section 32]
- Neighborhood Parks. The Subdivision Control Law is modified so that local subdivision regulations may require a dedication of up to 5% of a subdivision for park use benefitting the lots within the subdivision. This provision is not intended and can’t be interpreted to require transfer of ownership of such park areas to a governmental unit. [Bill sections 33 and 35]

***Chapter 40Y, Planning Ahead for Growth Act: Specific smart –growth tools applicable on a voluntary basis to opt-in communities only:***

**15) Planning Ahead for Growth Act [opt-in].** Current zoning codes are not resulting in smart-growth development that creates adequate new housing and jobs across the Commonwealth, while protecting environmental resources and community character. The “town and country” landscape of Massachusetts is being lost to sprawl development patterns. The new chapter 40Y provides strong incentives for communities to allow prompt and predictable by-right housing and commercial development permitting, focused in appropriate smart-growth locations, coupled with environmental and open space protections. Participating municipalities will get access to additional regulatory and fiscal resources and tools to realize their plans for sustainable development. To obtain “opt-in” status under Chapter 40Y, a community (or group of communities) must take the following actions, and demonstrate to the regional planning agency (RPA) that it has met the requirements of this section. Oversight, implementing regulations, and resolution of disputes would be through the Secretary of the Executive Office of Housing and Economic Development. [Bill section 26]

- Establishing a housing development district(s) in a smart-growth location(s) that can accommodate, through by-right development, a 5% increase the community’s total

number of existing housing units. Minimum densities are set for single-family, duplex-triplex, or multi-family housing.

- Establishing an economic development district in a smart-growth location(s) that permits prompt and predictable permitting of commercial / industrial development.
- Mandatory use of open space residential design (OSRD) for developments of 5 units or more on land zoned for a minimum lot-size of 40,000 square feet or greater per unit.
- Mandatory use of low impact development (LID) techniques for developments that disturb over one acre of land.

The following regulatory and financial tools would be authorized and available for a community's use after it has opted in:

- Enhanced use of impact fees to support public schools, libraries, municipal offices, affordable housing, and public safety facilities.
- Authorization to enter into development agreements.
- Reduction of the vested rights period for subdivisions from 8 to 5 years.
- Adoption of rate of development measures (annual caps on building permit issuance) in areas inside and outside of housing development districts.
- Adoption of natural resource protection zoning (NRPZ) at area densities of five acres or more per dwelling unit to protect identified lands of high natural or cultural resource value.
- Preference for state discretionary funds and grants; priority for state infrastructure investments, such as water and sewer infrastructure, school building funds, and biking and walking facilities; and requirements that the state take into consideration regional plans and local master plans in its capital spending.

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Executive Director

**MEMORANDUM**

**TO:** Delegates and Alternates, Berkshire Regional Planning Commission  
**FROM:** Nathaniel W. Karns, AICP, Executive Director  
**DATE:** May 13, 2016  
**SUBJ:** Approval of Executive Committee Actions

In accordance with the bylaws, all actions taken by the Executive Committee on the Commission's behalf must be endorsed at the next Commission meeting.

**The Executive Committee took the following actions at its April 14, 2016 meeting:**

- **Approved the Executive Director on behalf of the Commission to Sign Transit Planning Contract for 2016**

Approval was requested for the Executive Director to be authorized to sign a grant contract with MassDOT for our annual transit planning contract for 2016-2017, and to sign any resulting contracts and agreements. This supports our ongoing transit planning activities. The grant amount is \$38,093. The required match is provided through in-kind services by the Berkshire Regional Transit Authority.

- **Approved the Executive Director on behalf of the Commission to Sign Massachusetts Association of Health Boards - Health Impact Assessment Project Contract**

Approval was requested for the Executive Director to be authorized to sign a grant contract with the Massachusetts Association of Health Boards to conduct a Health Impact Assessment, and to sign any resulting contracts and agreements. Part of this contract is for BRPC staff to receive training from Metropolitan Area Planning Commission (MAPC) staff about how to conduct a HIA. The HIA itself will focus on the effects of potential Complete Streets improvements in the Town of Egremont. The HIA will follow the process outlined in MAPC's HIA Sprint framework and will include a scoping session and workshop with stakeholders, BRPC staff, and representatives from MAPC/MDPH. The contract is for \$8,880 and no match is required. The money has been received.

- **Approved the Executive Director on behalf of the Commission to Submit Grant Application to Transit Planning 4 All**

Approval was requested for the Executive Director to be authorized to submit a grant application to Transit Planning 4 All and to sign any resulting contracts and agreements. The grant is intended to develop strategies to improve inclusive, coordinated transportation services. The existing Regional Coordinating Council is the primary partner in this effort. The requested grant is \$84,810; no match is required.

- **Approved the Executive Director on behalf of the Commission to Submit Grant Application to U.S. Department of Transportation TIGER Grant Program**

Approval was requested for the Executive Director to be authorized to submit a grant application to USDOT for a TIGER (Transportation Investment Generating Economic Recovery) grant to implement infrastructure improvements along Main Street in Lee, and to sign any resulting contracts and agreements. This is a very recent opportunity and many details have to be worked out, including whether BRPC or the Town of Lee is the most appropriate applicant. The scope of work, which is being developed, will support the Eagle Mill project, as well as other downtown efforts. The budget is under development but the minimum grant award is \$1 million in a rural community. No match is required but the Town will provide some match to make the application more competitive.

Note: Subsequent to Executive Committee action, based on consultation with the Town of Lee and the Executive Office of Housing & Economic Development, it was determined this application would not receive sufficient State support and therefore no application was made.

- **Approved the Executive Director on behalf of the Commission to Submit Grant Application Environmental Protection Agency Healthy Communities Grant Program**

Approval was requested for the Executive Director to be authorized to submit a grant application to the U.S. Environmental Protection Agency New England Region Healthy Communities grant program and to sign any resulting contracts and agreements. The Healthy Communities Grant Program from EPA New England works directly with communities to reduce environmental risks, protect and improve human health and improve the quality of life. We are just beginning development of the project and do not yet have a definite scope or budget but the maximum award is \$25,000, with a required 5% match (\$1,250) which may be in-kind rather than cash.

- **Approved the Modifications to Employee Classification Plan & Related Benefits**

The modifications to the Employee Classification Plan was to clarify for part time employees who are enrolled in the State Retirement System and those who will pay into Social Security.

- **Approved the Modifications to Sick Leave Policy**

A proposed modification to BRPC's Sick Leave Policy was reviewed to address part time staff working on average less than 15 hours per week. BRPC clarified with our legal counsel that units of government are not covered by the referendum that requires sick leave for part time employees.

- **Approved the Merit Increase Range for FY 2017**

The following annual pay increases were proposed for FY 2017 based on performance ratings for the past year:

Exceptional -	3.65%
Exceeds Expectations -	2.65%
Meets Expectations -	1.65%
Needs Improvement -	0.65%
Unsatisfactory -	0%

The Northeast Urban Cost of Living increased by 0.65% from February 2015 to February 2016. BRPC does not have any automatic increases, such as a step plan and all increases are based on performance evaluations.

- **Approved a letter to MassDOT Draft Capital Investment Plan 2017-2021**

Allow the Executive Director on the behalf of the Commission to write a letter to advocate for the representation of the region in the Draft Capital Investment Plan (Copy attached).

**The Executive Committee took the following actions at its May 5, 2016 meeting:**

- **Approved the Executive Director on behalf of the Commission to sign a grant contract to be Subgrantee for Mass. Dept. of Housing & Community Development Grant Application to U.S. Dept. of Housing & Urban Development for Lead Abatement & Healthy Homes Program**

Approval was requested for the Executive Director to be authorized to sign a grant contract with the Mass. Department of Housing & Community Development to administer a lead abatement and healthy housing program for Berkshire County and to enter into any resulting contracts and subcontracts. DHCD is submitting a grant application to the U.S. Department of Housing & Urban Development for a statewide program and have stipulated that BRPC will administer the program in the Berkshires on their behalf. This builds on the housing rehabilitation projects we have been running in several communities for the past 3-4 years. Funding received would optimally be used to supplement existing local housing rehabilitation programs in the County and we expect that most of the work will be done by local community development staffs in Adams, North Adams and Pittsfield where most of the likely projects would be located. The only matches are being provided through other existing programs. The total amount requested is \$1,032,000 over three years for Berkshire County.

- **Approved the Executive Director on behalf of the Commission to Respond to a Request for Proposals from the Mass. Executive Office of Energy & Environmental Affairs, Office of Technical Assistance and Technology for Building Chemical Safety into Climate Change Resiliency Planning Program**

Approval was requested for the Executive Director to be authorized to respond to a Request for Proposals from the Mass. Executive Office of Energy & Environmental Affairs, Office of Technical Assistance and Technology for Building Chemical Safety into Climate Change Resiliency Planning Program, and to enter into any resulting contacts. The program is to sponsor workshops designed to build awareness and educate local officials, community leaders, Local Emergency Planning Committees and businesses about toxic chemicals stored, used and transported through their communities. We have not yet seen the solicitation so do not know any of the details but have been informed that this opportunity will be available.

- **Approved the Executive Director on behalf of the Commission to Submit a Grant Application to the Robert Wood Johnson Foundation, Culture of Health Global Ideas for US Solutions Program**

Approval was requested for the Executive Director to be authorized to submit a grant application to the Robert Wood Johnson Foundation, Culture of Health Global Ideas for US Solutions Program, and to enter into any resulting contacts. The project is under development but builds on the Age Friendly Berkshires work we have been engaged in. The budget is under development and we do not yet know the amount. No match is required.

- **Approved the Executive Director on behalf of the Commission to Enter into Contract with the Western Massachusetts Homeland Security Council for the Children in Disaster (CID)-Reunification Project**

Approval was requested for the Executive Director to be authorized to enter into a grant contract with the Western Massachusetts Homeland Security Council for the Children in Disaster (CID)-Reunification Project and to enter into any resulting contracts. The capability to reunify children with their families/primary caregivers following a disaster is a noted gap in local, regional and state emergency plans. This project will develop a Family Reunification Plan checklist and template which any department or organization can adopt and adapt to meet their reunification plan needs. The project budget is \$17,025. No local match is required.

**Attachment:**

BRPC Letter to MassDOT Secretary Pollack regarding draft MassDOT Capital Investment Plan

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NATHANIEL W. KARNIS, A.I.C.P.  
Executive Director

April 28, 2016

Ms. Stephanie Pollack, Secretary  
Massachusetts Department of Transportation  
10 Park Plaza, Ste. 3170  
Boston, MA 02116

RE: Community Capital Conversation – 2017-2021 Capital Plan

Dear Secretary Pollack:

On behalf of the Berkshire Regional Planning Commission, we appreciate the opportunity to provide input on the draft 2017-2021 Capital Investment Plan. The CIP includes a mix investments totaling more than \$14 billion that will assist with statewide efforts to maintain, modernize and expand the Commonwealth's transportation system. BRPC would like to acknowledge the substantial amount of work that has gone into developing this plan and this should result in financial resources being directed where they are most needed and in turn, provide the greatest benefit. Below you will find comments stemming from our review of the document.

We are also encouraged that the investment plan acknowledges that "less focus has been given to long-term maintenance needs of the Commonwealth's other transportation assets outside of those for the MBTA". Furthermore, Berkshire County, with its rural character, has unique challenges which are distinctly different than those in the more urbanized areas to the east. Based upon the project needs identified in our Regional Transportation Plan, the CIP will assist with funding for the implementation of these projects.

The plan provides significant funding for the Complete Streets Program. We applaud the efforts which MassDOT has taken to move this program forward and as importantly, providing the necessary funding. This program has been well received by Berkshire County communities and BRPC is eager to assist implementing this program which will make our roads safer and provide enhancement for all travel modes.

BRPC is pleased to see that the CIP proposes to provide \$50 million annually for a Municipal Bridge Program. The condition of locally owned bridges within our region continues to degrade from use, age, and the effects of severe storm events and this funding will assist to rehabilitate these important transportation structures. We did notice that the draft CIP did not contain any information on which specific bridges these funds are targeted for nor how the total amount will

be allocated amongst each Highway District. It is request that this information be included in the final CIP. We believe that the resources should be allocated across the state in relationship to the level of need in the different highway districts. There are many more municipally owned bridges which need significant investment in the western half of the state than in the greater Boston region and the level of funding should be allocated commensurately.

In reviewing the supplemental CIP documents, staff was able to identify rail projects which are recommended for funding through the CIP. With regards to rail investments, BRPC is appreciative and strongly supports the investments being directed at the Berkshire Line (\$15,360,000) and the Adams Branch (\$1,944,067). These improvements will improve the overall condition of the Berkshire Line which helps preserve 800 manufacturing jobs in southern Berkshire and northwest Connecticut, many of which are held by Berkshire County residents.

While we appreciate and support the investment being provided to the Adams Branch shown in the CIP, we are very disappointed that a primary purpose of acquiring and restoring that line will remain uncompleted. Specifically not funded is the .6 miles of new track to resume service for the popular Berkshire Scenic Railway Museum's Hoosac Valley tourist train into downtown Adams rather than ending it in an industrial park north of downtown. This is shown as not funded as "New Track Panel" in the amount of \$2,665,600. This is a critical investment that, if not completed, will waste the \$620,000 investment already made in a replica Adams station which is currently without a track. That investment, \$386,820 from the Mass. Department of Conservation & Recreation and \$232,300 by the Town of Adams, was based on a MassDOT commitment. The impact of a grant of \$200,000 made to the Berkshire Scenic Railway Museum by the Executive Office of Administration & Finance to facilitate service between the two downtowns by the tourist train will also be significantly diminished. Based on information we received from RR Engineering and Construction, the engineering consultant used by MassDOT Rail, the cost of installing new ties, track, etc. should not exceed \$800,000 for .6 miles of track; even assuming a 50% increase to \$1.2 million to cover other costs, the \$2,665,600 cost shown in the CIP appears to be grossly inflated. In addition to furthering economic development opportunities and freight/goods movement, the inclusion of funding for this project supports the new federal planning factor of enhancing travel and tourism stemming from the FAST Act.

The development of the CIP included an evaluation of projects using a new scoring system developed by the Project Selection Advisory Council. The draft document does not include information related to project scores and ranking nor is there any explanation why this information is not provided. Similarly, the document lacks discussion or information on the planning for performance tool that was utilized in this effort. To make the process more transparent, additional information which supports the funding decisions should be included.

With regards to highway projects contained in the tables beginning in page 67, the majority of these projects originate from TIPs and the STIP. We have noticed that the total project costs reflected in the table are noticeably different than those contained in the TIP/STIP. Recognizing that the CIP is a cash flow document, the total project cost appearing in the CIP should not be higher than the total project cost reflected in the TIP/RTP. The cumulative difference can have an impact which limits a project's ability to move forward to construction. The attached table provides additional details on project cost differences.

The CIP does not provide summary information about costs/expenditures for each District or MPO region. Similar to federal requirements, a geographic/equity analysis of the proposed projects should be prepared and included in the final document.

In conclusion, BRPC appreciates the efforts that have gone into preparing the 2017-2021 CIP. If you or any member of your staff would like to discuss our comments further, please do not hesitate to contact me. We look forward to working with you and your staff to implement the Capital Investment Plan.

Sincerely,

A handwritten signature in black ink, appearing to read "Nathaniel Karns", with a long horizontal flourish extending to the right.

Nathaniel Karns, AICP  
Executive Director

Cc: The Honorable Benjamin B. Downing, State Senator  
The Honorable Gailanne Cariddi, State Representative, 1<sup>st</sup> Berkshire  
The Honorable Paul Mark, State Representative, 2<sup>nd</sup> Berkshire  
The Honorable Tricia Farley-Bouvier, State Representative, 3<sup>rd</sup> Berkshire  
The Honorable Smitty Pignatelli, State Representative, 4<sup>th</sup> Berkshire

Project Cost Differences – Berkshire County

Town & Project Name	CIP Cost	TIP Cost
Pittsfield – W Housatonic & Center Street Intersection Improvements	1,980,636	1,470,000
New Marlborough – Bridge Replacement, Hadsell St.	962,758	2,693,454
Lanesborough – Bridge Replacement, Narragansett Ave over Pontoosuc Lake	5,515,164	5,460,012
Washington – Bridge Replacement over CSX	1,259,209	2,200,000
Pittsfield - Intersection & signal improvements at First St. and North St. Berkshire Med. Ctr.	5,133,333	7,384,000
Williamstown – Reconstruction of Rte. 43	2,695,977	2,803,063
N Adams - Intersection Improvements Rte. 2 & Phelps St.	1,271,956	1,321,528
N Adams – Bridge Maintenance Rte. 8A over Hoosic River	294,228	309,995
Lee – Bridge Replacement, Chapel St. over Greenwater Brook	1,081,727	2,053,000
Lee – Bridge Replacement, Valley St. over Housatonic River	1,540,628	5,017,680
Sheffield – Bridge Replacement, Rte. 7A Ashley Falls	5,133,333	5,584,896
Pittsfield - Intersection & Signal Improvements at 3 locations	1,980,636	1,500,000
Lenox – Reconstruction & widening at Walker St	6,725,400	6,087,123
New Marlborough – N-8-10 Umpachene Fall Rd. over Konkapot River	773,190	2,062,000
Pittsfield – P-10-049 Lakeway Drive	2,507,406	4,134,592
Sheffield – S-10-19 Berkshire School Road	1,943,520	4,510,328
Adams – N Adams Ashuwillticook Trail (Hodges Cross Rd.)	3,357,003	5,589,402
Gt. Barrington - Intersection & Signal Improvements at US 7 and SR 23/41 Maple Street	580,000	550,000

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Executive Director

MEMORANDUM

TO: BRPC Delegates and Alternates

FROM: Thomas Matuszko, Assistant Director

DATE: May 12, 2016

SUBJ: Proposed FY 2017 budget

The attached files contain the BRPC FY 2017 proposed budget (expenditures and revenues). Highlights for the FY 2017 proposed budget:

- The FY 17 budget is proposed at \$2,445,432. This is \$525,073 lower than the FY 16 budget, about 18%. This decrease is almost entirely in the subcontracts category, which decreased by \$582,710, about 47%. This is “money in, money out” and does not affect our bottom line. Net the subcontracts, the budget is actually increasing by about 3% (from \$1,745,230 to 1,802,867).
- The proposed budget shows \$177,405 in Unsecured New Projects. This is a relatively large number, but is slightly lower than the FY 16 budget (\$185,281.) The FY 16 budget gap was filled. There are a number of grant decisions pending, most notably some Brownfields grant applications and some environmental applications.
- The budget assumes that District Local Technical Assistance funding will end up in the State budget; if that does not happen we will need to fill in for that loss or reduce expenditures.
- Direct billable salaries are projected to increase slightly, less than 1%. This is partly attributable to one current full-time staff going part-time, which counteracts merit increases for the other staff. (the range is 0-3.65%).
- Administrative salaries budget increased by about 13%, due to a combination of factors, including a greater number of senior staff participating in overall agency management decisions and representing the agency in the community. Also, key Administrative staff received deserved salary increases last year.
- Overall benefits decreased, \$467,512 to \$448,053 (a 4% increase). This is due to several factors, including less staff taking health and dental insurance, more staff participating in the retirement program versus social security, the reduction in benefits from the conversion of the fulltime staff to part-time, and a relatively low increase in health and dental insurance (4.5% and .98%.)
- We plan on funding the Retiree Health Insurance Liability Trust (GASB 45) for the fifth year. We are maintaining last year’s budgeted contribution amount of \$45,000. This equals the amount we should be putting in annually to cover our staff who are eligible for and getting somewhat close (within 10 years) to retirement.
- Non-personnel operating costs are budgeted to increase by about 9% from the FY 2016 budget. There are a variety of contributing factors. Additional accounting services are needed to help us understand constantly changing rules and requirements. Advertising expenses are projected to address possible agency leadership succession. Copying expenses are projected to increase significantly due to the nature of the work. There have been a number of projects where printed documents are still required. Directors and Officers insurance increased due to our work reviewing the proposed NED gas pipeline. We anticipate increased costs due to office renovation to accommodate the transition of the Public Health staff into the office.

- Direct project expenses (meetings, printing, travel & meals, and other direct program expenses) are simply a wash budget-wise as the costs and revenues are identical.
- As mentioned previously, subcontracts are significantly lower due primarily to less brownfield activity. Subcontracts do not have an impact on our bottom line as they are a wash budget-wise.
- We have budgeted to put \$15,000 into our reserve to continue to rebuild that. We hope to be able to increase the reserve by about \$12,000 in the current year,
- The overhead rate is still targeted at 155%, but that could decrease by having the Public Health staff on-site, billing the full overhead rate.

Attachments (2)

FY 2017 Projected Revenues

FY 2017 Projected Expenditures

Berkshire Regional Planning Commission

PROJECTED REVENUES

	FY 2016 Approved	FY 2017 Recommended
Outsource GIS Planner	\$ 10,000	\$ 10,000 *
Brownfield Revolving Loan Fund	\$ 840,498	\$ 296,550
Berkshire Bike Path Council Support	\$ 500	\$ 700
Transportation Planning	\$ 520,000	\$ 553,967
Berkshire Public Health Alliance Inspections	\$ 30,000	\$ 30,000
Berkshire Public Health Alliance Nursing	\$ 12,000	\$ 25,000
Brownfields Assessment - 2013	\$ 186,411	\$ 0
Mohawk Trail Path Phase II	\$ 10,839	\$ 4,000
Rest of River Coordination	\$ 60,000	\$ 60,000
Brownfields Area Wide Planning	\$ 36,295	\$ 21,463
Distressed Properties Assessment	\$ 933	\$ 0
Scenic Byways Trail Linkage Project	\$ 799	\$ 0
Online Burn Permits	\$ 1,400	\$ 1,400
Public Health District Incentive Grant-DPH	\$ 6,250	\$ 0
Public Health District Incentive Grant-HRIA	\$ 11,892	\$ 0
Prevention Wellness Trust Fund - BPHA	\$ 49,549	\$ 50,000
Lee Bikeway Design	\$ 27,695	\$ 10,898
Food Safety Training	\$ 1,229	\$ 0
Opioid Abuse Prevention Collaborative	\$ 100,000	\$ 100,000
BCBOHA Support Services	\$ 10,000	\$ 10,000
Priority Development Fund Housing Assessments	\$ 11,185	\$ 0
Berkshire Conservation Commission Training	\$ 10,761	\$ 0
Great Barrington/Sheffield CDBG 2014	\$ 65,341	\$ 0
Pipeline Technical Assistance	\$ 8,660	\$ 0
Advancing Berkshire Economy	\$ 18,547	\$ 5,056
Voluntary Program Standards for Food Safety	\$ 1,357	\$ 0
Otis Master Plan Support	\$ 12,074	\$ 0
Immunization Equity Technical Assistance FY15	\$ 4,496	\$ 0
Stockbridge Bowl Watershed Assessment 604b	\$ 3,044	\$ 0
Richmond Open Space & Recreation Plan Support	\$ 8,235	\$ 0
Technical Review - Proposed NED Gas Pipeline	\$ 30,812	\$ 0
Sandisfield Master Plan	\$ 24,000	\$ 0
Lee Open Space & Recreation Plan	\$ 5,000	\$ 0
Dalton Master Plan	\$ 10,000	\$ 0
Stockbridge Bowl S319 Support	\$ 7,000	\$ 7,500
Smoking Cessation- Prevention Wellness Trust Fund	\$ 55,000	\$ 40,000
Berkshire Medical Reserve Corps	\$ 28,900	\$ 28,333
Age Friendly Berkshires	\$ 0	\$ 86,000
Great Barrington CDBG - Infrastructure & Housing	\$ 0	\$ 69,839
FDA Regional Food Safety Permitting and Inspection	\$ 0	\$ 73,850
Regional NPDES Phase II Stormwater Assessment	\$ 0	\$ 37,576
Pittsfield Brownfield Assessment	\$ 0	\$ 7,500
Spontaneous Unaffiliated Volunteer Training	\$ 0	\$ 8,407
Berkshire Education Task Force Support	\$ 0	\$ 36,000
FRCOG Mohawk Trail Woodlands Partnership	\$ 20,000	\$ 30,000
District Local Technical Assistance	\$ 226,112	\$ 210,691 <sup>2</sup>
Food Health Assessment	\$ 0	\$ 10,000
Long Term Recovery Plan Assistance	\$ 0	\$ 14,463
Debris Management Planning Assistance	\$ 0	\$ 7,467
Transit Planning	\$ 38,474	\$ 37,567
Pittsfield Open Space & Recreation Plan	\$ 0	\$ 3,023
Health Impact Assessment	\$ 0	\$ 1,484
Pavement Management Program	\$ 0	\$ 2,330
Children in Disaster Planning	\$ 0	\$ 17,025
Egremont Complete Streets Assessment	\$ 0	\$ 2,783 *
Cheshire Master Plan Support	\$ 0	\$ 25,000 *
Lanesborough Hazard Mitigation Plan	\$ 0	\$ 9,633
Sandisfield Complete Streets Assessment	\$ 0	\$ 23,000 *
Pavement Management Services	\$ 0	\$ 4,500 *
Berkshire United Way Support	\$ 5,000	\$ 15,000 *
Dalton Stormwater Management Support	\$ 10,000	\$ 14,000 *
Emergency Preparedness Planning	\$ 133,935	\$ 133,935
CDBG Grant FY 16	\$ 35,000	\$ 35,000 <sup>1</sup>
Unsecured New Projects	\$ 185,281	\$ 177,405
General:Assesment, Other	\$ 96,000	\$ 97,086
<b>TOTAL REVENUES</b>	<b>\$ 2,970,505</b>	<b>\$ 2,445,432</b>

<sup>1</sup>. Applied for - no decision as of 5/1/16

<sup>2</sup>. Assumes \$100,000 new revenue. As of 5/1/16 not approved by legislature

\* As of May 1, 2016 not yet under contract

**Berkshire Regional Planning Commission**

**PROJECTED EXPENDITURES**

	FY 16 Approved	FY 2017 Recommended
<b>SALARIES</b>		
Direct Billable	\$ 762,650	\$ 769,327
Indirect Admin.	\$ 261,892	\$ 298,109
Interns (Admin)	\$ 0	\$ 0
Interns (Projects)	\$ 3,100	\$ 196
<b>Total Salaries</b>	<b>\$ 1,027,642</b>	<b>\$ 1,067,632</b>
<b>BENEFITS</b>		
Sick, Comp and Vacation Leave	\$ 93,017	\$ 90,723
Holiday and Jury Leave	\$ 48,297	\$ 47,106
Sick Leave	\$ 37,564	\$ 36,637
Retirement	\$ 6,000	\$ 5,900
Health Insurance	\$ 203,148	\$ 189,871
Retirees Health Insurance	\$ 10,365	\$ 10,725
Retiree Future Health Insurance Liability (GASB 45)	\$ 45,000	\$ 45,000
Workers Comp Insurance	\$ 1,193	\$ 1,110
State Unemployment Insurance	\$ 5,338	\$ 5,500
FICA and Medicare	\$ 17,590	\$ 15,481
<b>Total Benefits</b>	<b>\$ 467,512</b>	<b>\$ 448,053</b>
<b>NON-PERSONNEL</b>		
<b>OPERATING EXPENSES</b>		
Accounting Services	\$ 1,800	\$ 3,000
Advertising	\$ 650	\$ 2,300
Audit	\$ 19,350	\$ 19,000
Computer Equipment, Software & Maintenance	\$ 21,792	\$ 22,890
Copying Expense	\$ 11,775	\$ 24,000
Depreciation	\$ 19,590	\$ 15,778
Dues & Subscriptions	\$ 9,159	\$ 10,000
Flex Plan Administration	\$ 1,158	\$ 1,120
Insurance (Auto, Officers, Office)	\$ 5,118	\$ 7,627
Janitor	\$ 2,750	\$ 2,750
Legal (Administrative)	\$ 1,100	\$ 1,100
Mapping Supplies	\$ 825	\$ 825
Meetings (Administrative)	\$ 2,000	\$ 2,000
Payroll Services	\$ 3,000	\$ 3,000
Postage	\$ 3,600	\$ 3,600
Printing (Administrative)	\$ 400	\$ 400
Rent	\$ 45,090	\$ 46,782
Staff Development	\$ 11,000	\$ 11,000
Supplies	\$ 6,275	\$ 6,275
Telephone/Internet	\$ 7,213	\$ 8,000
Travel & Meals (Administrative)	\$ 4,500	\$ 2,500
Water & Recycling	\$ 1,680	\$ 1,725
Web Site	\$ 470	\$ 470
Utilities	\$ 14,000	\$ 14,500
Miscellaneous	\$ 2,000	\$ 4,000
<b>Subtotal Operating (Admin)</b>	<b>\$ 196,295</b>	<b>\$ 214,642</b>

**Berkshire Regional Planning Commission****PROJECTED EXPENDITURES**

	FY 16 Approved	FY 2017 Recommended
Interest Expense	\$ 0	\$ 0
Communications (Projects)	\$ 100	\$ 50
Equipment / Software (Projects)	\$ 2,228	\$ 2,000
Legal (Projects)	\$ 7,187	\$ 21,775
Meetings (Projects)	\$ 2,984	\$ 2,253
Postage (Projects)	\$ 432	\$ 50
Printing (Projects)	\$ 972	\$ 1,350
Rent (Projects)	\$ 3,600	\$ 0
Supplies (Projects)	\$ 2,949	\$ 1,833
Travel & Meals (Projects)	\$ 12,189	\$ 17,679
Other Program Expenses	\$ 5,639	\$ 9,799
Unreimbursed Expenses	\$ 500	\$ 750
<b>Subtotal Operating (Other)</b>	<b>\$ 38,780</b>	<b>\$ 57,539</b>

**SUBCONTRACTS**

Revolving Loan Fund Recipients & Consultants	\$ 834,515	\$ 276,550
Traffic Count Consultant	\$ 5,000	\$ 5,000
Berkshire Public Health Nursing Program Support	\$ 30,978	\$ 50,000
Brownfields Assessment Consultant	\$ 159,182	\$ 0
Bikepath Engineering Consultant-Greenman	\$ 0	\$ 4,000
Rest of River Clean-up Legal Consultation	\$ 60,000	\$ 60,000
Lee - Licensed Site Professional	\$ 16,500	\$ 8,100
Burn Permit Software Consultant	\$ 1,200	\$ 1,200
Bikepath Engineering Consultant	\$ 0	\$ 5,000
Housing Rehabilitation Specialist	\$ 20,000	\$ 5,000
NED Educational Consultants	\$ 4,500	\$ 0
Engineering & Legal Expertise - Pipeline Review	\$ 25,000	\$ 0
Opioid Abuse Prevention Collaborating Partners	\$ 40,000	\$ 25,000
Medical Reserve Corp Support	\$ 28,400	\$ 24,000
Age Friendly Berkshires Program Manager	\$ 0	\$ 80,000
Board of Health Online Permitting Services	\$ 0	\$ 48,715
Stormwater Engineering Consultant	\$ 0	\$ 20,000
Education Task Force Consultant - Donahue Institute	\$ 0	\$ 30,000

<b>Total Subcontracts</b>	<b>\$ 1,225,275</b>	<b>\$ 642,565</b>
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<b>RESERVE</b>	<b>\$ 15,000</b>	<b>\$ 15,000</b>
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<b>TOTAL EXPENDITURES</b>	<b>\$ 2,970,505</b>	<b>\$ 2,445,432</b>
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BERKSHIRE REGIONAL PLANNING COMMISSION  
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SHEILA IRVIN, Chair  
KYLE HANLON, Vice-Chair  
MARIE RAFTERY, Clerk  
CHARLES P. OGDEN, Treasurer

NATHANIEL W. KARNS, A.I.C.P.  
Executive Director

**MEMORANDUM**

**TO:** Delegates and Alternates  
**FROM:** Nathaniel W. Karns, AICP, Executive Director  
**DATE:** May 13, 2016  
**SUBJ:** Executive Director's Report

There are a number of items to bring to your attention.

A. 2017 State Budget and District Local Technical Assistance Funding

As most of you know, District Local Technical Assistance funding has been the lifeblood of BRPC's ability to provide significantly enhanced planning services to our municipalities since the program began in 2009. The Governor's proposed 2017 budget only recommended \$2.0 million for District Local Technical Assistance (DLTA) funding to the regional planning agencies, a decrease of \$800,000 (29% decrease). The House Budget has increased the funding to the historic \$2.8 million level. The House has historically also been more favorably disposed than the Senate to DLTA. This is included in budget line item 1599-0026.

Even the level funding in the House budget is in the face of a substantial increase in requests for DLTA services from our towns and cities, much of which is driven by the new Community Compact program. The Administration is recommending that municipalities seek DLTA assistance for many of their Community Compact commitments so the regional planning agencies need additional DLTA funding to support Community Compact initiatives.

In BRPC's case, we received 28 valid applications this year, as opposed to 24 last year. Most of the regions are reporting increased applications as well. Even last year we were unable to meet several requests and this year is even worse. We therefore are working with the other regions to advocate for an increase in the funding available in FY 2017 to \$3.4 million from the existing \$2.8 million. The \$2.8 million has been steady for the past three years.

We request that local officials reach out to Senator Downing and seek his support to actually increase the funding available to \$3.4 million in this year's budget. The Senate is working on its version of the budget and now is the time to seek the Senate's support. You should copy Senate President Stanley Rosenberg and Senate Ways & Means Committee Chair Karen E. Spilka on any requests to Senator Downing.

B. Tennessee Gas Pipeline Northeast Energy Direct Project Status

As you may have read, Tennessee Gas Pipeline Company (TGP) has suspended all work on seeking approval from the Federal Energy Regulatory Commission (FERC) for the Northeast Energy Direct pipeline across Hancock, Lanesborough, Cheshire, Dalton, Hinsdale, Peru, and Windsor. A copy of the TGP letter to FERC is attached. We are waiting to see with TGP's next required filing with FERC on May 26<sup>th</sup> what

“suspension” may actually mean; FERC does not know either. At this point there is not any evidence that the application is actually being withdrawn but that may be the net effect.

- C. Initial Meeting of Rural Policy Advisory Commission – June 10, 11:30 a.m. – 1:30 p.m., Franklin Regional Council of Governments, Greenfield

The new Rural Policy Advisory Commission, established in legislation last year, will be holding its initial meeting in Greenfield on Friday, June 10<sup>th</sup>. I am the appointee from the Berkshire Regional Planning Commission. State Representative Gailanne Cariddi (North Adams) is the House Speaker’s appointee. The mission of the Commission, as articulated in the legislation, “. . . shall be to enhance the economic vitality of rural communities, defined as municipalities with population densities of less than 500 persons per square mile, and to advance the health and well-being of rural residents.” The full legislation is attached (MGL, Chapter 23A, Section 42).

- D. Project to Update Mt. Washington’s Parcel Maps

We have a contract to update Mt. Washington’s parcel maps. For further information on this project or other mapping needs, contact GIS, Data and IT Manager Mark Maloy at 442-1521, ext. 29 or [mmaloy@berkshireplanning.org](mailto:mmaloy@berkshireplanning.org).

- E. Update of Pittsfield’s Open Space and Recreation Plan

Staff is working with the City of Pittsfield to update its Open Space and Recreation Plan, which has expired. In order to be eligible for State and Federal park and conservation funds, communities must have up-to-date plans. For further information, contact Senior Planner Lauren Gaherty at [lgaherty@berkshireplanning.org](mailto:lgaherty@berkshireplanning.org) or 442-1521, ext. 35.

- F. Initiation of Health Impact Assessment Project for Egremont

BRPC has been awarded a small contract to work with the Town of Egremont to generate a rapid Health Impact Assessment related to the possible implementation of Complete Streets related pedestrian and cycling improvements in the town. For further information contact Public Health Program Manager Laura Kittross at [lkittross@berkshireplanning.org](mailto:lkittross@berkshireplanning.org) or 442-1521, ext. 32.

- G. Initiation of Tyringham Pavement Management Assessment

Staff will conduct a pavement management assessment in Tyringham this summer. Pavement Management Systems are a powerful tool for any sized community to help quantify the condition of all roadway surfaces and determine the most cost-effective approach to utilizing scarce funds to keep their roads in the best possible condition given funding constraints. For further information, contact Senior Planner Emily Lindsey at [elindsey@berkshireplanning.org](mailto:elindsey@berkshireplanning.org) or 442-1521, ext. 12.

- H. Egremont Complete Streets Project

Egremont is the first municipality in the Berkshires to be able to get to work on MassDOT’s new Complete Streets program and we have just entered into a contract with the town to develop their town assessment and prioritization program. Once that is completed, Egremont will then be eligible to seek up to \$400,000 to implement its highest priority projects from MassDOT. For further information on this project or on the Complete Streets Program, contact Senior Planner Emily Lindsey at [elindsey@berkshireplanning.org](mailto:elindsey@berkshireplanning.org) or 442-1521, ext. 12 or Planner Eammon Coughlin at [ecoughlin@berkshireplanning.org](mailto:ecoughlin@berkshireplanning.org) or 442-1521, ext. 19.

- I. Initiation of Natural Hazard Mitigation Planning Project for Lanesborough

The Berkshire Regional Planning Commission (BRPC) will provide technical and planning services to assist the Town in preparing a Hazard Mitigation Plan update to meet the requirements of the Federal Emergency Management Agency (FEMA). For further information contact Senior Planner Lauren Gaherty at [lgaherty@berkshireplanning.org](mailto:lgaherty@berkshireplanning.org) or 442-1521, ext. 35.



April 22, 2016

Kimberly D. Bose, Secretary  
Federal Energy Regulatory Commission  
888 First Street, N.E.  
Washington, DC 20426

Re: Tennessee Gas Pipeline Company, L.L.C., Docket No. CP16-21-000  
Northeast Energy Direct Project

Dear Ms. Bose:

On November 20, 2015, Tennessee Gas Pipeline Company, L.L.C. ("Tennessee") filed with the Federal Energy Regulatory Commission ("Commission") a certificate application ("Application") in the above-referenced docket for the Northeast Energy Direct Project ("Project"). The Application remains pending before the Commission.

As a result of inadequate capacity commitments from prospective customers and a determination that the Project is uneconomic, Kinder Morgan, Inc., Tennessee's parent company, announced on April 20, 2016 that the company would suspend further work and expenditures on the Project. At this time, Tennessee is in the process of determining how best to proceed consistent with existing contracts. As a result, Tennessee respectfully requests that the Commission not take any further action in processing the Application, pending Tennessee submitting a status report to the Commission no later than May 26, 2016.

In accordance with the Commission's filing requirements, Tennessee is submitting this filing with the Commission's Secretary through the eFiling system, and is providing a copy of this filing copy of this filing to the Office of Energy Projects and to all parties on the official service list for this proceeding.

Respectfully submitted,

TENNESSEE GAS PIPELINE COMPANY, L.L.C.

By: /s/ J. Curtis Moffatt  
J. Curtis Moffatt  
Deputy General Counsel and Vice President Gas  
Group Legal

cc: Mr. Terry Turpin (Commission Staff)  
Mr. Rich McGuire (Commission Staff)  
Mr. Eric Tomasi (Commission Staff)  
All parties on service list

Document Content(s)

NED Project-Status Letter-April 22.PDF.....1-1



### ***Rural Policy Advisory Commission***

SECTION 42. Said chapter 23A is hereby further amended by adding the following section:-

Section 66. (a) There shall be a rural policy advisory commission within, but not subject to the supervision or control of, the executive office of housing and economic development. The mission of the commission shall be to enhance the economic vitality of rural communities, defined as municipalities with population densities of less than 500 persons per square mile, and to advance the health and well-being of rural residents.

(b) The commission shall consist of the following 15 members: the speaker of the house of representatives, ex officio, or a designee; the president of the senate, ex officio, or a designee; the secretary of housing and economic development, ex officio, or a designee; 12 persons to be appointed by the governor, 1 of whom shall be from the Berkshire regional planning commission, 1 of whom shall be from the Cape Cod commission, 1 of whom shall be from the central Massachusetts regional planning district commission, 1 of whom shall be from the Franklin Regional Council of Governments, 1 of whom shall be from the Martha's Vineyard commission, 1 of whom shall be from the Montachusett regional planning commission, 1 of whom shall be from the Nantucket Planning and Economic Development Commission and 1 of whom shall be from the Pioneer Valley Planning Commission. Commission members shall be persons with demonstrated interests and experience in advancing the interests of rural residents.

(c) Members of the commission may serve a maximum of 3 consecutive 3-year terms. Vacancies in the membership of the commission shall be filled for the balance of the unexpired term. The commission shall elect from among its members a chair, a vice chair, a treasurer and any other officers it considers necessary. The members of the commission shall receive no compensation for their services but shall be reimbursed for any usual and customary expenses incurred in the performance of their duties. Members shall be considered special state employees for the purposes of chapter 268A.

(d) The commission shall serve as a research body for issues critical to the welfare and vitality of rural communities and shall: (i) study, review and report on the status of rural communities and residents in the commonwealth; (ii) advise the general court and the executive branch of the impact of existing and proposed state laws, policies and regulations on rural communities; (iii) advance legislative and policy solutions that address rural needs; (iv) advocate to ensure that rural communities receive a fair share of state investment; (v) promote collaboration among rural communities to improve efficiency in delivery of services; and (vi) develop and support new leadership in rural communities. The executive office shall provide the commission with adequate office space and any research, analysis or other staff support that the commission reasonably requires.

(e) The commission shall meet on a quarterly basis at the discretion of the chair. Meeting locations shall rotate between Boston, Cape Cod and the Islands, central Massachusetts and western Massachusetts. Meetings shall be open to the public pursuant to sections 18 to 25, inclusive, of chapter 30A.

(f) The commission may accept and solicit funds, including any gifts, donations, grants or bequests or any federal funds for any of the purposes of this section. The funds shall be deposited in a separate account with the state treasurer, shall be received by the state treasurer on behalf of the commonwealth and shall be expended by the commission under the law.

(g) The commission shall annually, not later than June 2, report the results of its findings and activities of the preceding year and its recommendations to the governor and to the clerks of the senate and the house of representatives who shall forward the same to the joint committee on economic development and emerging technologies.

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- [Previous Outside Section](#)
  - [Next Outside Section](#)