

HOUSATONIC REST OF RIVER MUNICIPAL COMMITTEE

AGENDA

Rest of River Municipal Committee
March 6, 2020, 9:00 a.m.
Lee Memorial Hall
33 Main Street, Lee MA 01238
Courtroom

1. Introductions (9:00 am)
2. Review of minutes of February 7, 2020 Meeting (9:05 am)
3. Discussion of Public Outreach (9:10 am – 9:45 am)
4. Update on Escrow Agreement (9:45 am – 9:55 am)
5. RoR Committee Finances / Budget / Expenses (9:55 am – 10:05 am)
6. Executive Session – legal strategy (10:05 am – 10:10 am)
7. Other Business (10:10 am – 10:20 am)
8. Next Meeting / Agenda Items (10:20 am – 10:30 am)
9. Adjournment (10:30 am)

City and Town Clerks: Please post this notice pursuant to Open Meeting Law MGL c. 30A, §§ 18-25.

Please Note: In the case of inclement weather on the day of the meeting, please call BRPC at 413-442-1521, ext. 5 to confirm if the meeting is still being held.



HOUSATONIC REST OF RIVER MUNICIPAL COMMITTEE

Meeting Minutes

Rest of River Municipal Committee; March 6, 2020, Lee Town Hall

1. Introductions. T. Matuszko opened the meeting at 9:00 am and stated the meeting was being recorded.

Committee members attending:

Pat Carlino, Lee Select Board and Representative

Channing Gibson, Lenox Representative

Martin Mitsoff, Sheffield Select Board and Representative

Chris Rembold, Great Barrington Representative

Others present:

Melissa Provencher, BRPC

T. Matuszko, BRPC

N. Karns, BRPC

2. Review of minutes of February 7, 2020 meeting. *A motion was made to accept minutes of 2-7-20 by C. Gibson and seconded by C. Rembold; minutes approved as written: P. Carlino, Lee, AYE; C. Rembold, Great Barrington; C. Gibson, Lenox, AYE; and M. Mitsoff, Sheffield, ABSTAIN.*

3. Public Outreach – Committee offered their opinions about the 3 public informational sessions held in Lee, Great Barrington, Pittsfield. Committee members summarized how the public can continue to be informed of the Settlement. P. Carlino noted that the public can continue to receive ongoing information about the settlement at ROR Committee meetings and the Lee selectboard meetings, and that additional information sessions with EPA may be held if the public requests it. C. Gibson reported that Lenox had hosted a “kitchen table” meeting for the Lenox Dale neighbors, with EPA staff attending; most questions at that meeting were technical and directed towards EPA; EPA brought a sample of the landfill liner to show thickness. C. Rembold reported that he and EPA recorded a radio interview to be aired next Friday; again most questions were technical in nature. P. Carlino wondered if a live stream of the cleanup can be set up to keep residents apprised of cleanup activities; perhaps a web cam type of thing that would move downstream as the work moves. Discussion ensued about creating a possible central portal of the most relevant cleanup document links; could it be hosted on BRPC website for easy public reference to avoid all 5 Towns having to monitor and duplicate effort?

N. Karns described how past Technical Assistance Services for Communities (TASC) grants have worked in the past; current scopes of work open for public review are floodplain sampling in floodplain in Pittsfield and vernal pools along full ROR; would be good to coordinate vernal pool comments with BEAT and Audubon, which have good knowledge of science.

Discussion turned to Kameron Spaulding proposal to provide public messaging services. C. Gibson stated that he does not see a need to “sell” the Settlement; it was a mediation and does not need to be sold; it is now an EPA public process. C. Rembold agreed there was no need for formal PR process but there is a need to continue to get Committee’s and Towns’ information out to the public. M. Mitsoff agreed no formal process, but need to provide a clearinghouse of information for public. Might there be a partnership with Audubon to provide information to public? Is the CCC the best place for the clearinghouse?

M. Provencher reported that BRPC has entered into a database all the questions asked at the public informational sessions and she has begun to answer those BRPC has the expertise to answer; she will work with EPA staff to answer outstanding questions so they can be posted online; Towns can provide link to the posting.

Members agree that there is a need to more clearly outline the ongoing role and responsibilities of the ROR Committee as the Settlement and cleanup progresses. A draft list of ongoing responsibilities has been drafted and N. Karns will bring the document to the next meeting.

4. Escrow Agreement and Finances. Escrow Agreement – will seek legal guidance about whether it can be posted publicly; C. Gibson to follow up on this.

Agreed Towns should begin to think about how they might spend the Settlement funds; individual selectboards may want to begin conversations now about possible beneficial uses; Town Meeting will need to approve; probably focus on reparation for neighbors in Lee and Lenox; agree need to set aside some funds for possible future legal or other consultant costs regarding cleanup. The Committee will continue discussions next meeting.

Committee reviewed invoice from Mirick O’Connell for \$297.00. ***A motion was made to approve payment of invoice by C. Rembold and seconded by C. Gibson; motion carried unanimously: P. Carlino, Lee, AYE; C. Rembold, Great Barrington; C. Gibson, Lenox, AYE; M. Mitsoff, Sheffield, AYE.*** Still waiting for invoice from Hagens Berman for work Jan. 1 to present.

M. Provencher reviewed the budget with the Committee. It was noted that if there was an appeal of the Settlement or Permit, then escrow funds would be frozen and Town funds will be needed for any legal fight; the Towns need to have ROR funds for legal for FY21 just in case. Total legal cost to Towns so far is approx. \$312,000 since 2014; this does not include extensive grant funds from DLTA program for technical assistance from BRPC.

5. Other Business. Agreed that moving forward the Committee would have a standing meeting every other Friday; can cancel if no business; next meeting would be March 20th.

6. Executive Session – for legal strategy, mediation and meeting/conferring with mediator. T. Matuszko requested a motion to go into Executive Session with respect to litigation or decision of public business whereas if the discussion were held in open session it may be detrimental to the legal position of the Rest of River Municipal Committee legal action with EPA and GE. ***A motion made by C. Gibson and seconded by P. Carlino, for the Committee to enter into Executive Session, as stated above and not to return to open session, carried with the following roll call vote: P. Carlino, Lee, AYE; M. Mitsoff, Sheffield, AYE; C. Gibson, Lenox, AYE; C. Rembold, Great Barrington, AYE. The Committee went into Executive Session at 10:14 am. The Committee did not return to open session.***

Meeting Materials:

- Meeting Agenda 3-6-20
- Draft Meeting Minutes of 2-7-20
- Email from C. Gibson to M. Provencher; Subject: Fwd: Clean Up; Date: 2-28-20, with attached proposal
- Email from K. Walsh to M. Provencher, M. Refolo, M. Pawa; Subject: GE/Towns Escrow; Date: 3-4-20, with attached escrow agreement
- Mirick O’Connell Letter dated 2-11-20 with invoice attached
- Housatonic Rest of River Municipal Committee Financial Summary, updated 3/5/20

Respectfully submitted,
Lauren Gaherty, BRPC

From: [Channing Gibson](#)
To: [Melissa Provencher](#)
Subject: Fwd: Clean Up
Date: Friday, February 28, 2020 3:13:59 PM
Attachments: [Clean Housatonic.pdf](#)

This was sent to me. Please distribute for discussion. FYI, in addition to running his PR firm, Kameron is on the Lenox Planning Board and was formerly the director of the Lenox Chamber of Commerce. Additionally, he grew up in Ft. Edward, NY, ground zero for the Hudson River cleanup, so he does know the issues.

Sent from my iPhone

Begin forwarded message:

From: Kameron Spaulding <kameronspaulding@gmail.com>
Date: February 28, 2020 at 12:27:33 PM EST
To: CHANNING GIBSON <changibson@mac.com>
Subject: Clean Up

Channing,

It was great to talk to you the other day. I have kept thinking about this plan, and whether we love it or not it truly is the best chance we have. My fear is that the noise growing on the other side is starting to get pretty loud.

- Their Facebook group has topped 4000 members and averages over 100 posts a day
- They have begun a campaign to call and write elected officials
- A letter writing campaign has gotten them daily ink
- They have designed and are ordering signs, bumper stickers and more
- A "fact sheet" and talking points have been drafted and are being handed out
- A website has been launched
- They are planning a campaign to harass local businesses and threaten the tourism economy to force them to support when needed
- They have worked with local students on a now launched social media campaign with coordinated content, hashtags and more pages
- They are now also planning organized demonstrations outside of public meetings
- The list goes on

So I was think how we can help tell the other very important side of the story. I think we the supporters (even if reluctantly supportive) need to work to craft a clear message that the public can understand to push back against the fear mongering. I have put some ideas down in the attached document.

This is not a sale pitch, its an offer to help. That being said if some supporting organizations wanted to contribute for costs as they arrive that would be great and

make this plan something we all can execute. I am willing to donate 20 hours of my firms time to this plan and that can get us started if there is support for crafting a coordinated retort. We need to get the public to hear and understand that this is 99.9999% likely the best offer we are going to get and that walking away could have incredible impacts for our region.

--

Kameron Spaulding
Spaulding Communications
518-232-8735 cell

From: [Walsh, Kevin](#)
To: [Melissa Provencher](#); [Refolo, Michael A.](#); [Matthew Pawa](#)
Subject: GE/Towns Escrow
Date: Wednesday, March 4, 2020 11:18:21 AM
Attachments: [Executed Investment Direction.pdf](#)
[Executed Escrow Agreement.pdf](#)

Attached are fully executed copies of the escrow agreement, including the specimen signatures, and the investment direction letter. I have sent these to Wilmington Trust so that they can activate the account. GE will begin moving money as soon as possible. Thanks for your help on this matter.

Kevin J Walsh

Member

Mintz, Levin, Cohn, Ferris, Glovsky and Popeo, P.C.
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KJWalsh@mintz.com | Mintz.com



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MIRICK O'CONNELL

A T T O R N E Y S A T L A W

Paul W. Carey
Mirick O'Connell
100 Front Street
Worcester, MA 01608-1477
pcarey@mirickoconnell.com
t 508.860.1590
f 508.983.6238

FEB 17 2020

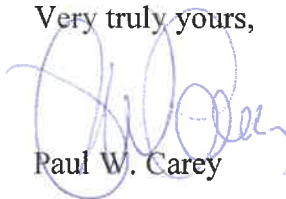
February 11, 2020

Thomas Matuszko
Executive Director
Berkshire Regional Planning Commission
1 Fenn Street, Suite 201
Pittsfield, MA 01201

Dear Tom:

Enclosed is our statement for services rendered and disbursements incurred through January 31, 2020. Please feel free to call me should you have any questions regarding the enclosed invoice.

Very truly yours,



Paul W. Carey

PWC/kk
Enclosure

MIRICK, O'CONNELL, DEMALLIE & LOUGEE, LLP
WORCESTER | WESTBOROUGH | BOSTON

www.mirickoconnell.com

MIRICK O'CONNELL

A T T O R N E Y S A T L A W

100 Front Street, Worcester, MA 01608-1477
t 508.791.8500 | f 508.791.8502
Federal Employment I.D. No. 04-2203347

Thomas Matuszko
Executive Director
Berkshire Regional Planning Commission
1 Fenn Street, Suite 201
Pittsfield, MA 01201

February 10, 2020
Invoice 464175
Attorney PWC

INVOICE SUMMARY

For services and disbursements through January 31, 2020:

RE: 30099
Berkshire Regional Planning Commission

Matter #	Description	Services	Disbursements	Total
1	General Electric	297.00	.00	297.00
Total		297.00	.00	297.00

TOTAL SERVICES AND DISBURSEMENTS \$ 297.00

Client Matter: 30099-1
General Electric

February 10, 2020
Invoice 464175

SERVICES RENDERED

Date	Tkpr	Description	Hours	Amount
1/30/20	MAR	Review correspondence from M. Provencher; review amendment; draft amendment to Escrow Agreement.	.60	297.00

TOTAL SERVICES \$ 297.00

SUMMARY OF SERVICES

Name	Hours	Total
Michael A. Refolo	.60	297.00
TOTALS	.60	\$ 297.00

TOTAL SERVICES AND DISBURSEMENTS \$ 297.00

MIRICK O'CONNELL

A T T O R N E Y S A T L A W

100 Front Street, Worcester, MA 01608-1477
t 508.791.8500 | f 508.791.8502
Federal Employment I.D. No. 04-2203347

Thomas Matuszko
Executive Director
Berkshire Regional Planning Commission
1 Fenn Street, Suite 201
Pittsfield, MA 01201

February 10, 2020
Invoice 464175
Attorney PWC

REMITTANCE ADVICE

Client Matter: 30099-1

BALANCE DUE

\$ 297.00

Please return this advice with payment to:

Mirick O'Connell
ATTN: Accounts Receivable
100 Front Street
Worcester, MA 01608-1477

Wire Transfer Instructions:

People's United Bank
120 Front Street
Worcester, MA 01608
Mirick O'Connell
Swift Code PESBUS33
ABA # 221172186
Account #0010086426

To Pay by Credit Card:

Visa Mastercard
 AMEX Discover
Account Number: _____
Expiration Date: ____/____
Amount \$ _____
Name on Account: _____

PAYMENT IS DUE UPON RECEIPT
Except As Otherwise Agreed Upon

Thank you! Your business is greatly appreciated.

HOUSATONIC REST OF RIVER MUNICIPAL COMMITTEE FINANCIAL SUMMARY

Expenses - Hagens Berman through 12/31/19 and Mirick O'Connell through 1/31/20

Updated 3/5/20

Municipality	FY19 Rollover Funds	FY20 Allocation	FY20 Budget	FY 20 Expenses	FY20 Rollover Funds	FY21 Allocation	FY21 Budget	FY 21 Expenses	Total Current Funds
Pittsfield									
Lenox	\$ 22,962.11	\$ 30,000.00	\$ 52,962.11	\$ 34,078.95					\$ 18,883.16
Lee	\$ 29,137.11	\$ 30,000.00	\$ 59,137.11	\$ 40,253.95					\$ 18,883.16
Stockbridge	\$ 29,137.11	\$ 45,000.00	\$ 74,137.11	\$ 40,253.95					\$ 33,883.16
Great Barrington	\$ 22,962.11	\$ 10,000.00	\$ 32,962.11	\$ 34,078.95					\$ (1,116.84)
Sheffield	\$ 2,402.16	\$ 4,757.53	\$ 7,159.69	\$ 7,174.54					\$ (14.85)
Total	\$ 106,600.60	\$ 119,757.53	\$ 226,358.13	\$ 155,840.33					\$ 70,517.79

Municipality	Method of Allocation	Total Allocation	Total Expenses	Invoiced	Paid	Outstanding	Total Remaining
Pittsfield	N/A	\$ 9,022.14	\$ 9,022.14	\$ 9,022.14	\$ 9,022.14	-	-
Lenox	Legal Expenses	\$ 90,000.00	\$ 71,116.84	\$ 71,046.30	\$ 69,538.17	1,508.13	18,883.16
Lee	Annual Town Meeting	\$ 90,000.00	\$ 71,116.84	\$ 71,046.30	\$ 58,693.31	12,352.99	18,883.16
Stockbridge	Reserve Fund Request	\$ 105,000.00	\$ 71,116.84	\$ 71,046.30	\$ 67,481.43	3,564.87	33,883.16
Great Barrington	Legal Expenses	\$ 70,000.00	\$ 71,116.84	\$ 71,046.30	\$ 58,693.31	12,352.99	(1,116.84)
Sheffield	Legal Expenses	\$ 18,835.49	\$ 18,850.34	\$ 18,835.49	\$ 18,835.49	-	(14.85)
Total		\$ 382,857.63	\$ 312,339.80	\$ 312,042.80	\$ 282,263.85	\$ 29,778.98	\$ 70,517.79

Fiscal Year	TOTAL COST SUMMARY	Pawa / Hagens Berman	BRPC	Bracket & Lucas	KP Law	Mirick O'Connell
FY14	\$ 24,467.76	\$ 21,442.68	\$ 2,561.08	\$ 464.00	\$ -	\$ -
FY15	\$ 25,506.91	\$ 20,790.91	\$ 4,716.00	\$ -	\$ -	\$ -
FY16 (thru 8/18/16)	\$ 5,787.50	\$ 5,787.50	\$ -	\$ -	\$ -	\$ -
FY17	\$ 61,156.22	\$ 61,156.22	\$ -	\$ -	\$ -	\$ -
FY18	\$ 4,140.00	\$ 4,140.00	\$ -	\$ -	\$ -	\$ -
FY19	\$ 35,441.10	\$ 35,279.10	\$ -	\$ -	\$ 162.00	\$ -
FY20	\$ 155,840.32	\$ 142,364.82	\$ -	\$ -	\$ -	\$ 13,475.50
FY21	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
TOTAL	\$ 312,339.80	\$ 290,961.23	\$ 7,277.08	\$ 464.00	\$ 162.00	\$ 13,475.50

10 Invoices FY20

Voted to approve 8/16/19	Hagens Berman	Invoice #	267754209	\$ 13,290.00	Payment	\$ 3,156.38	x2	\$ 664.50	\$ 6,977.25
Voted to approve 8/16/19	Hagens Berman	Invoice #	267754227	\$ 39,290.00	Payment	\$ 9,331.38	x2	\$ -	\$ 18,662.75
Voted to approve 9/19/19	Hagens Berman	Invoice #	267754261	\$ 15,010.00	Payment	\$ 3,564.88	x4	\$ 750.50	\$ 15,010.00
Voted to approve 10/25/19	Mirick O'Connell	Invoice #	452575	\$ 4,870.50	Payment	\$ 1,156.74	x4	\$ 243.53	\$ 4,870.50
Voted to approve 11/15/19	Hagens Berman	Invoice #	267754332	\$ 53,325.25	Payment	\$ 12,664.75	x4	\$ 2,666.26	\$ 53,325.25
Voted to approve 11/22/19	Mirick O'Connell	Invoice #	454955	\$ 4,685.00	Payment	\$ 1,112.69	x4	\$ 234.25	\$ 4,685.00
Voted to approve 12/13/19	Mirick O'Connell	Invoice #	459408	\$ 3,295.50	Payment	\$ 782.68	x4	\$ 164.78	\$ 3,295.50
Voted to approve 1/17/20	Mirick O'Connell	Invoice #	461907	\$ 327.50	Payment	\$ 77.78	x4	\$ 16.38	\$ 327.50
Voted to approve 1/17/20	Hagens Berman	Invoice #	267754442	\$ 48,389.57	Payment	\$ 11,492.52	x4	\$ 2,419.48	\$ 48,389.57
To be approved 3/6/20	Mirick O'Connell	Invoice #	464175	\$ 297.00	Payment	\$ 70.54	x4	\$ 14.85	\$ 297.00

\$ 155,840.32