

HOUSATONIC REST OF RIVER MUNICIPAL COMMITTEE

AGENDA

April 3, 2020, 9:00 a.m.

Join Zoom Meeting

<https://zoom.us/j/316966398>

Meeting ID: 316 966 398

1. Introductions (9:00 am)
2. Review of minutes of March 6, 2020 Meeting (9:05 am)
3. Update on Escrow Account (9:10 am – 9:15 am)
4. RoR Committee Finances / Budget / Expenses (9:15 am – 9:25 am)
5. Role of the Committee (9:25 am – 9:45 am)
6. Uncontested Documents (9:45 am – 10:00 am)
7. Other Business (10:00 am – 10:05 am)
8. Next Meeting / Agenda Items (10:05 am – 10:15 am)
9. Adjournment (10:15 am)
10. Executive Session – legal strategy (10:15 am – 10:30 am)

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

One tap mobile

**+13126266799,,316966398# US (Chicago)
+16465588656,,316966398# US (New York)**

Find your local number:

<https://zoom.us/j/316966398>

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+1 253 215 8782 US
+1 301 715 8592 US**

Meeting ID: 316 966 398



HOUSATONIC REST OF RIVER MUNICIPAL COMMITTEE

Meeting Minutes

Rest of River Municipal Committee; April 3, 2020, Held remotely via Zoom Meeting technology

1. Introductions. T. Matuszko opened the meeting at 9:00 am and stated that the meeting was being held remotely as allowed by Gov. Baker's Order of the Relief of the Open Meeting Law due to the coronavirus social distancing directive. Committee members attending:

Pat Carlino, Lee Select Board and Representative (joined 9:12 am)
Channing Gibson, Lenox Representative
Steve Shatz, Stockbridge Representative
Rene Wood, Sheffield Select Board and Representative

Others present:

Melissa Provencher, BRPC
T. Matuszko, BRPC
N. Karns, BRPC
Lauren Gaherty, BRPC
Evan Triantafilidis, *Berkshire Record*

2. Review of minutes of March 6, 2020 meeting. *A motion was made to accept minutes of 3-6-20 by C. Gibson and seconded by S. Shatz; minutes approved as written: S. Shatz, Stockbridge, AYE; C. Gibson, Lenox, AYE; R. Wood, Sheffield, ABSTAIN (P. Carlino not yet attending the meeting).*

3. Update on Escrow Account – GE deposited funds into the escrow account March 11, 2020. BRPC agreed to contact Wilmington Trust (WT) to confirm deposit and amount and to learn how the Committee will receive reports in the future about the account from WT.

4. Committee Finances. A discussion on Committee finances and recent invoices ensued. The Committee was presented with a new invoice from Hagen Berman for \$16,361.61 and a new one from Mirick O'Connell for \$1,039.50. If approved by the Committee BRPC will pay the bills and invoice the Towns. ***A motion was made to pay both invoices as presented, made by P. Carlino and seconded by C. Gibson; motion passed: S. Shatz, Stockbridge, AYE; C. Gibson, Lenox, AYE; R. Wood, Sheffield, AYE; P. Carlino, Lee, AYE.*** It was stressed that Towns need to pay the invoice promptly so that BRPC can pay the consultants.

Discussion turned to cash flow; Towns need to ensure the Committee's ability to pay for ongoing and anticipated technical assistance needs. Attention turned to the spreadsheet created by BRPC, showing the financial status of each Town; it was noted that the spreadsheet does not include the two invoices approved a few minutes ago. S. Shatz stressed that the Committee should create a clear and equalized cash flow model to ensure funding to allow the Committee and Towns to remain active in the upcoming Permit and cleanup process. Town budgeting process in the coming year will be complex due to expected income losses due to coronavirus; town meetings are delayed and it's not clear when FY21 appropriations will be approved. M. Pawa will be asked to estimate what it might cost for them and ESS to review the revised EPA Permit and submit an amicus filing. Towns will need to have funds available when the time comes to pay consultants; BRPC will not be able to pay the invoices without prompt payment by the Towns.

5. Uncontested Documents and Role of Committee. BRPC staff have joined a conference call with D. Tagliaferro and Z. Purnell from EPA and City of Pittsfield about how the Technical Assistance Services to Communities (TASC) grant might be used to review upcoming Scopes of Work (SOW) that GE is continuing to draft; a kickoff meeting with Skeo is being scheduled. There are currently two documents to be reviewed regarding floodplain and vernal pool data. GE has generated some SOW and EPA has posted these on its website. GE is also preparing a list of other documents and work products and a timeline for submission of these, some of which include work at dams; this list should be helpful in understanding what participation may be needed by the Committee and Towns in the coming months. M. Provencher will be the BRPC point person for this process, look through the SOW and will bring in others as expertise is needed. Agreed that BRPC will contact BEAT and Audubon about their opinions of the current vernal pool SOW; will contact HVA to see if they have an interest in dams; BRPC will download and post the various documents on its website for easy access by the Committee. EPA reported that they are still targeting Memorial Day for issuance of their revised Permit.

Discussion turned to the ongoing role of the Committee. Agreed that it will continue to serve as conduit of information to Town Select Boards and an advisory role. Current Intergovernmental Agreement (IGA) is active through December 2020. Amendments/extensions may be considered later in the year as the Permit process unfolds, but all agree that edits to IGA should wait until pressures of coronavirus, budgeting, and town meetings is passed; all agree to keep their Selectboards updated. P. Carlino would like the Committee to consider ways that the communities and local experts can provide input during the Permit process and some type of oversight during cleanup activities; admittedly the cleanup is years away but we should now begin to think about ways to involve local community.

6. Other Business and Next Meeting. B. Olson would like to discuss possible re-use options for the whole Lane site; Lee and Lenox will continue to consider reuse there and other possible post-cleanup uses along river. B. Olson has recently stated that DEP is “supportive” of the Settlement Agreement, but did not provide details on what “supportive” means. Not specific date was set for next meeting; all agree to meet as needed.

7. Adjournment – At 9:55 am, on a motion by S. Shatz and seconded by C. Gibson, the meeting was adjourned by unanimous vote.

Meeting Materials:

- Meeting Agenda 4-3-20
- Draft Meeting Minutes of 3-6-20
- Housatonic Rest of River Municipal Committee Financial Summary, Updated 4/2/20
- Invoice from Hagens Berman Sobol Shapiro LLP, dated 3-27-20
- Invoice from Mirick O’Connell, dated 3-16-20
- Email from D. Tagliaferro to M. Provencher, T. Matuszko, J. McGrath; Subject: Review of uncontested permit submittals; Date: 3-27-20 1:53:11 pm

Respectfully submitted,
Lauren Gaherty, BRPC

From: [Tagliaferro, Dean](#)
To: [Melissa Provencher](#); [Thomas Matuszko](#); [Jim McGrath \(jmcgrath@cityofpittsfield.org\)](mailto:jmcgrath@cityofpittsfield.org)
Cc: [Tagliaferro, Dean](#)
Subject: Review of uncontested permit submittals
Date: Friday, March 27, 2020 1:53:11 PM

Melissa, Tom and Jim,

See below for a list of uncontested permit documents that I intend to distribute the full CCC next week. I know everyone is likely very busy with COVID-19 issues, and these submittals may not be a high priority, but I would like to discuss how to proceed and if we want to use Skeo to assist the City and towns in reviewing and commenting on these documents. In addition, we need to discuss the Potential Vernal Pool report <https://semspub.epa.gov/src/document/01/641693> and the Morphology Report <https://semspub.epa.gov/src/document/01/641694> submitted by GE last November. I have received only one comment on these submittals from the public. EPA has completed its initial review and we can discuss our view of the submittals and potential comments.

Other Recent submittals include:

These are Rest of River Statement of Work (SOW) documents that were not contested in the Final 2016 Permit appeals. These documents were required to be submitted regardless of the Settlement Agreement.

Design for Raising Portions of Rising Pond Dam Above 500-Year Flood Elevation (January 31, 2020)
<https://semspub.epa.gov/src/document/01/643526>

Engineering Phase 1 Inspection/Evaluation Reports for Rising Pond Dam (February 3, 2020)
<https://semspub.epa.gov/src/document/01/643530>

-
Engineering Phase 1 Inspection/Evaluation Reports for Woods Pond Dam (February 3, 2020)
<https://semspub.epa.gov/src/document/01/643531>

Warning Signs for Woods Pond Dam and Rising Pond Dam (February 19, 2020)
<https://semspub.epa.gov/src/document/01/644028>

-
Report on January 2020 Dive Inspection at Rising Pond Dam (March 24, 2020)
<https://semspub.epa.gov/src/document/01/644576>

2019 Annual Report on Biota Consumption Advisory Outreach Activities in Massachusetts (February 28, 2020)
<https://semspub.epa.gov/src/document/01/644072>

Please let me know your thoughts.

Thanks

Dean Tagliaferro
EPA Project Manager

GE-Pittsfield/Housatonic River Site

Boston, MA

617.918.1282

Tagliaferro.dean@epa.gov

HOUSATONIC REST OF RIVER MUNICIPAL COMMITTEE FINANCIAL SUMMARY

Expenses - Hagens Berman through 3/31/20 and Mirick O'Connell through 2/29/20

Updated 4/2/20

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	\$ 39,169.38					\$ 13,792.73
Lee	\$ 29,137.11	\$ 30,000.00	\$ 59,137.11	\$ 45,344.38					\$ 13,792.73
Stockbridge	\$ 29,137.11	\$ 45,000.00	\$ 74,137.11	\$ 45,344.38					\$ 28,792.73
Great Barrington	\$ 22,962.11	\$ 10,000.00	\$ 32,962.11	\$ 39,169.38					\$ (6,207.27)
Sheffield	\$ 2,402.16	\$ 5,627.59	\$ 8,029.75	\$ 8,246.22					\$ (216.47)
Total	\$ 106,600.60	\$ 120,627.59	\$ 227,228.19	\$ 177,273.73					\$ 49,954.45

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	\$ 76,207.27	\$ 72,074.51	\$ 69,538.17	2,536.34	13,792.73
Lee	Annual Town Meeting	\$ 90,000.00	\$ 76,207.27	\$ 72,074.51	\$ 71,046.30	1,028.21	13,792.73
Stockbridge	Reserve Fund Request	\$ 105,000.00	\$ 76,207.27	\$ 72,074.51	\$ 67,481.43	4,593.08	28,792.73
Great Barrington	Legal Expenses	\$ 70,000.00	\$ 76,207.27	\$ 72,074.51	\$ 58,693.31	13,381.20	(6,207.27)
Sheffield	Legal Expenses	\$ 19,705.55	\$ 19,922.02	\$ 19,051.96	\$ 18,835.49	216.47	(216.47)
Total		\$ 383,727.69	\$ 333,773.20	\$ 316,372.11	\$ 294,616.84	\$ 21,755.30	\$ 49,954.45

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	\$ 177,273.74	\$ 158,726.43	\$ 4,032.31	\$ -	\$ -	\$ 14,515.00
FY21	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
TOTAL	\$ 333,773.22	\$ 307,322.84	\$ 11,309.39	\$ 464.00	\$ 162.00	\$ 14,515.00

13 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
Voted to approve 3/6/20	Mirick O'Connell	Invoice #	464175	\$ 297.00	Payment	\$ 70.54	x4	\$ 14.85	\$ 297.00
Voted to approve 1/10/20	BRPC	Invoice #	319-013120	\$ 4,032.31	Payment	\$ 957.67	x4	\$ 201.62	\$ 4,032.31
To be approved 4/3/20	Hagens Berman	Invoice #	267754688	\$ 16,361.61	Payment	\$ 3,885.88	x4	\$ 818.08	\$ 16,361.61
To be approved 4/3/20	Mirick O'Connell	Invoice #	472960	\$ 1,039.50	Payment	\$ 246.88	x4	\$ 51.98	\$ 1,039.50

\$ 177,273.74



March 27, 2020

Housatonic

Client/Matter # 10696-0011

Invoice No: 267754688

RE: Housatonic

Billing Summary Through March 31, 2020

Fees For Professional Services	\$11,810.00
Expenses and Advances	\$4,551.61
CURRENT BILL	\$16,361.61
Previous Balance Due	\$112,265.14
Payments Applied Since Last Invoice	\$68,335.25
Net Balance Forward	\$43,929.89
TOTAL BALANCE DUE	\$60,291.50

PROFESSIONAL SERVICES

			HOURS	AMOUNT
1/9/2020	MFP	Emails and calls with J. Bickerman and clients regarding update on status of negotiations with other parties. L160 A107	0.70	\$280.00
1/10/2020	MFP	Emails with Committee and J. Bickerman regarding meeting; discussions with W. Kelman to prep him for call. Review to do items from W. Kelman post call. L160 A107	0.80	\$320.00
1/10/2020	WHK	Participation in Committee meeting; email to M. Pawa regarding same; telephone call with J. Hershberger regarding budget. L160 A103	1.80	\$540.00
1/13/2020	MFP	Calls and emails with J. Bickerman, Pittsfield and GE following up on items from Committee meeting regarding status of negotiations, Berkshire Eagle potential meeting, CCC meeting, etc. L160 A107	2.20	\$880.00
1/13/2020	WHK	Review 1-page PR summary of settlement agreement. L160	0.60	\$180.00
1/14/2020	WHK	Review 5-page PR summary of settlement agreement. L160 A103	0.80	\$240.00
1/15/2020	MFP	Edit public communications documents; emails with T. Matuszko regarding same. L160 A103	1.20	\$480.00
1/16/2020	MFP	Attention to final versions of communications documents and forward to J. Bickerman. L160 A104	0.40	\$160.00
1/21/2020	MFP	Individual calls with GE and EPA regarding update on negotiations. Group call with EPA and GE regarding rollout strategy. L160 A108	0.80	\$320.00
1/22/2020	MFP	Call with C. Gibson regarding rollout logistics. L160 A108	0.30	\$120.00
1/23/2020	MFP	Attention to budgeting; emails with client, J. Bickerman, and GE regarding public communications and escrow. L160 A104	1.30	\$520.00
1/23/2020	WHK	Answer Committee's questions regarding process; draft budget. L160 A103	1.30	\$390.00
1/24/2020	MFP	ROR Committee call; review Settlement agreement edits received	3.90	\$1,560.00

		from J. Bickerman; call with J. Bickerman regarding need for a single settlement document versus having BEAT and City enter separate agreements. Emails with BRPC staff regarding same.		
		L160 A104		
1/27/2020	MFP	Edit settlement agreement, call with Tim Conway regarding vernal pools, ACEC, and outreach to local politicians. Call with J. Bickerman regarding need for unified settlement document. Emails with Committee regarding same.	2.50	\$1,000.00
		L160 A103		
1/28/2020	MFP	Calls and emails with EPA and GE regarding changes to settlement agreement; ROR Committee meeting; edit settlement agreement.	2.90	\$1,160.00
		L160 A107		
1/28/2020	WHK	Participate in telephone call with Committee; review latest changes to agreements.	0.70	\$210.00
		L160 A103		
1/31/2020	MFP	Attention to escrow agreement issues, including review of all outstanding items in escrow agreement, call with M. Refolo, emails with clients and GE regarding timing of funding agreement, discussions with W. Kelman, and attention to confidentiality issues in mediation agreement.	2.10	\$840.00
		L160 A104		
2/3/2020	MFP	Review final changes to settlement agreement, discuss with W. Kelman, emails with clients regarding same.	1.60	\$640.00
		L160 A104		
2/3/2020	WHK	Review final agreement.	1.00	\$300.00
		L160 A106		
2/5/2020	MFP	Conference call with Committee regarding final settlement agreement and public rollout process; call with T. Conway regarding confidentiality issues; call with J. Bickerman regarding confidentiality issues.	0.70	\$280.00
		L160 A107		
2/5/2020	WHK	Telephone call with Committee; review and revise PR materials.	2.50	\$750.00
		L160 A106		
2/9/2020	MFP	Attention to public rollout, including calls and emails with client and media.	0.70	\$280.00
		L160 A104		
2/10/2020	MFP	Attention to public rollout, including calls and emails with client and media.	0.90	\$360.00
		L160 A104		

Total Fees **\$11,810.00**

SERVICES RECAP

		HOURS	RATE	AMOUNT
WHK	Kelman, Wesley	8.70	300.00	\$2,610.00
MFP	Pawa, Matthew	23.00	400.00	\$9,200.00

EXPENSES

03/26/2020	ESS Group, Inc.; Invoice # 50888; Expert Fees. For professional services rendered through 03/07/20.			\$4,548.11
03/31/2020	Copies			\$3.50
	Total Expenses			\$4,551.61

OUTSTANDING STATEMENTS

267754442	01/10/2020	\$43,929.89
	TOTAL	\$43,929.89

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

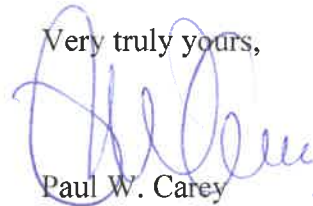
March 16, 2020

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 February 29, 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

March 12, 2020
Invoice 472960
Attorney PWC

INVOICE SUMMARY

For services and disbursements through February 29, 2020:

RE: 30099
Berkshire Regional Planning Commission

Matter #	Description	Services	Disbursements	Total
1	General Electric	1,039.50	.00	1,039.50
Total		1,039.50	.00	1,039.50

TOTAL SERVICES AND DISBURSEMENTS \$ 1,039.50

Client Matter: 30099-1
General Electric

March 12, 2020
Invoice 472960

SERVICES RENDERED

Date	Tkpr	Description	Hours	Amount
2/04/20	MAR	Review issues regarding escrow agreement; correspondence regarding escrow agreement.	.80	396.00
2/06/20	MAR	Correspondences regarding escrow agreement; revise escrow agreement.	.50	247.50
2/12/20	MAR	Revise escrow agreement; correspondence to GE counsel.	.30	148.50
2/13/20	MAR	Review escrow agreement; call with S. Shatz regarding escrow.	.50	247.50
TOTAL SERVICES				\$ 1,039.50

SUMMARY OF SERVICES

Name	Hours	Total
Michael A. Refolo	2.10	1,039.50
TOTALS	2.10	\$ 1,039.50

TOTAL SERVICES AND DISBURSEMENTS \$ 1,039.50

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

March 12, 2020
Invoice 472960
Attorney PWC

REMITTANCE ADVICE

Client Matter: 30099-1

BALANCE DUE

\$ 1,039.50

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.