



MEETING NOTICE

There will be a meeting of the

BERKSHIRE REGIONAL PLANNING COMMISSION

on Thursday, January 21, 2021 at 7:00 p.m.

This will be a Virtual Meeting as allowed by Massachusetts Governor Charlie Baker's Executive Order dated March 12, 2020 suspending certain provisions of the Open Meeting Law, G.L. c.30 sec.20.

Information to join the meeting is:

<https://us02web.zoom.us/j/3926128831>

Meeting ID: 392 612 8831

Call in information: 312.626.6799, 646.558.8656, 301.715.8592, 346.248.7799, 669.900.9128

Meeting Material: All written materials for the meeting are posted on **BRPC's website:** www.berkshireplanning.org. Click on the Calendar of Events for the meeting and available materials will be listed.

Agenda

- I. Opening (7:00-7:05)
 - A. *Call to Order*
 - B. *Roll Call*
 - C. *Approval of Minutes of the November 19, 2020 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. Delegate and Alternate Issues (7:10-7:15)

Delegates and Alternates may bring up any issue not on the agenda.
- IV. Executive Committee Action (7:15-7:20)

*Executive Committee actions taken **on the Commission's behalf** at its December 3, 2020 and January 7, 2021 meetings are presented for discussion.*
- V. Amendments to the Zoning Enabling Act in the Economic Development Bill (7:20-7:50)

The end of the last legislative session saw the passage of an Economic Development Bill. In addition to many important economic stimulus measures

it contained some important changes to the Zoning Enabling Act related to housing. BRPC staff will review those changes.

- VI. Regional Housing Strategy (7:50 - 8:15)
BRPC is partnering with 1Berkshire to develop a regional housing strategy. We would like to engage in an open discussion about some of the challenges and issues related to housing in your community hear your ideas about ways to address those items.
- VII. The Public Health Response to the COVID-19 Crisis (8:15 – 8:45)
The BRPC Public Health Program, in close partnership with other Public Health members and health professionals, has been at the forefront of the COVID-19 crisis in Berkshire County. This includes contract tracing, serving as fiscal agent for region-wide protective gear and equipment and most recently coordinating vaccination clinics for first responders. BRPC Public Health Program Manager Laura Kittross will provide a summary of those activities over the last 11 months.
- VIII. **Executive Director’s Report** (8:45 – 8:50)
- IX. Adjournment (8:50)

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



DRAFT MINUTES OF THE FULL COMMISSION November 19, 2020 MEETING

Virtual Meeting as allowed by Massachusetts Governor Charlie Baker's Executive Order dated March 12, 2020 suspending certain provision of the Open Meeting Law, G.L. c.30 sec.20.

I. Opening

A. The meeting was called to order at 7:03 PM

Chair Kyle Hanlon reminded all that per the open meeting law, BRPC records all meetings. Others may record the meeting after informing the chair. Any documents presented must be provided to the chair at the meeting. Pittsfield TV is recording.

Roll Call

The following Commission members were present:

Robert Ronzio – Becket Delegate
Peter Traub – Cheshire Delegate
Zack McCain – Dalton Delegate
Malcolm Fick – Gt. Barrington Alternate
Pedro Pachano – Gt. Barrington Delegate
Barbara Davis-Hassan – Lanesborough Alternate
Lauryn Franzoni – Lenox Delegate
Kyle Hanlon – North Adams Delegate
Sheila Irvin – Pittsfield Delegate
Fred Schubert – Richmond Alternate
Rene Wood – Sheffield Alternate
Roger Bolton – Williamstown Alternate
David Zink – Windsor Delegate

Staff Present:

Thomas Matuszko – Executive Director
Marianne Sniezek – Office Manager
Clete Kus – Transportation Program Manager
Laura Brennan – Senior Planner
Allison Egan – Senior Planner

Others Present: Tammy Daniels – iberkshire

Andy Hogeland – Williamstown
Christine Rasmussen – Stockbridge Planning Board
Logan Malick – The BEAT & Berkshire Environmental Team
Francesca Paris

B. Approval of Minutes of September 24, 2020 Meeting

Roger Bolton moved to approve; Sheila Irvin seconded. Approved with a roll call vote and 4 abstentions.

Roll Call Vote:

Robert Ronzio – Becket Delegate - Abstain
Peter Traub – Cheshire Delegate - Yes
Zack McCain – Dalton Delegate - Yes
Pedro Pachano – Gt. Barrington Delegate - Abstain
Barbara Davis-Hassan – Lanesborough Alternate - Yes
Lauryl Franzoni – Lenox Delegate - Abstain
Kyle Hanlon – North Adams Delegate - Yes
Sheila Irvin – Pittsfield Delegate - Yes
Fred Schubert – Richmond Alternate - Yes
Rene Wood – Sheffield Alternate - Yes
Roger Bolton – Williamstown Alternate – Yes
Douglas McNally – Windsor Alternate - yes
David Zink – Windsor Delegate – Abstain

II. Comments from the Public – None

III. Delegate & Alternate Issues – None

IV. Executive Committee Actions

There were no questions on the actions taken by the Executive Committee at their October 3, 2020 and November 5, 2020 meetings.

V. Annual Update on the Comprehensive Economic Development Strategy

The Economic Development Administration (EDA) requires BRPC to submit an updated performance report annually, which the Commission needs to approve, on its Comprehensive Economic Development Strategy (CEDS) to keep it certified. Senior Planner Laura Brennan updated the Commission on the CEDs Report. A draft copy was in the meeting materials.

2017-2022

5-Year CEDS:

- Document demographic & economic data
- Describe economic distress in the region
- Use the S.W.O.T. system
- Contain Regional Goals
- Identify Priority Projects

2020

Annual Updates:

- Articulate changes to economic profile
- Track trends during 5 year cycles
- Describe progress toward Goals
- Update & revise the Priority Projects list

Rene Wood moved to approve the Annual CEDS Report; Pedro Pachano seconded. Approved with a roll call vote.

Robert Ronzio – Becket Delegate - Yes
Peter Traub – Cheshire Delegate - Yes
Zack McCain – Dalton Delegate - Yes
Pedro Pachano – Gt. Barrington Delegate - Yes
Barbara Davis-Hassan – Lanesborough Alternate - Yes
Lauryn Franzoni – Lenox Delegate - Yes
Kyle Hanlon – North Adams Delegate - Yes
Sheila Irvin – Pittsfield Delegate - Yes
Fred Schubert – Richmond Alternate - Yes
Rene Wood – Sheffield Alternate - Yes
Roger Bolton – Williamstown Alternate - Yes
David Zink – Windsor Delegate – Yes

VI. Pittsfield Gray to Green Project

Tom explained the Executive Committee decided to present projects BRPC is working on related to social equity, inclusion and diversity.

Senior Planner Allison Egan described a new project called Gray to Green. This project will work in several neighborhoods in Pittsfield to engage the community and prioritize green planning in a social and racial justice context.

- Assess existing plans, surveys, assessments, and other studies conducted in Morningside and Westside in Pittsfield.
- Address areas of structural and environmental racism and environmental justice.
- Explore routes to environmental justice through community-lead initiatives education and advocacy.
- Amplify voices of Black people and people of color in Morningside and Westside, and build initiatives around their needs as seen through their lived experiences i.e. not imposing solutions but listening with curiosity.

Allison explained a person's **life expectancy is shorter or longer due to** social differences. Those living in the Morningside/Westside neighborhoods live, on average, 10-12 fewer years than those in the more income-secure Southeast

neighborhood. Climate change research and other studies have shown that people living in poverty and living in neighborhoods with greater heat exposure (less tree cover) are more susceptible to heat illness and mental health crises exacerbated by heat stress. A lack of green space and tree shade can have a large impact on the temperature of an urban area. Higher temperatures are not just uncomfortable but can exacerbate existing health conditions such as asthma, COPD, heart disease and mental health conditions.

BRPC will work with the City of Pittsfield, environmental advocacy and action groups, neighborhood organizations, Westside/Morningside residents, and social service organizations to conduct proactive planning that focuses on green development, promotes environmental justice, and establishes new standards for green investment and project prioritization in the most vulnerable neighborhoods.

VII. Transportation and Climate Initiative

The Transportation Climate Initiative (TCI) is an initiative of 12 Northeast and Mid-Atlantic States, with the District of Columbia, focused on reducing greenhouse gas emissions from the transportation sector through a regional cap and trade program. The BRPC Regional Issues Committee will meet on Wednesday November 18, 2020 to recommend comments on this initiative **for the Commission's consideration.**

Transportation Program Manager Clete Kus gave an overview of the draft comment letter and asked for the Commission to endorse the letter.

Comments and suggestions were made by Rene Wood, Andy Hogeland and Logan Malick.

Rene Wood moved to approve the Transportation Climate Initiative (TCI) comment letter with suggestions added; Roger Bolton seconded. Approved with a roll call vote.

Robert Ronzio – Becket Delegate - Yes
Peter Traub – Cheshire Delegate - Yes
Zack McCain – Dalton Delegate - Yes
Pedro Pachano – Gt. Barrington Delegate - Yes
Barbara Davis-Hassan – Lanesborough Alternate - Yes
Lauryn Franzoni – Lenox Delegate - Yes
Kyle Hanlon – North Adams Delegate - Yes
Sheila Irvin – Pittsfield Delegate - Yes
Fred Schubert – Richmond Alternate - Yes
Rene Wood – Sheffield Alternate - Yes
Roger Bolton – Williamstown Alternate - Yes
David Zink – Windsor Delegate – Yes

VIII. East-West Rail Draft Report

MassDOT has released its draft report on the East-West Passenger rail study with a request for comments. Transportation Program Manager Clete Kus gave an overview of the drafts **comments for the Commission's** consideration. Comments were due at 11:59 pm that evening.

Fred Schubert moved to approve the East-West Rail comment letter; Peter Traub seconded. Approved with a roll call vote

Robert Ronzio – Becket Delegate - Yes
Peter Traub – Cheshire Delegate - Yes
Zack McCain – Dalton Delegate - Yes
Pedro Pachano – Gt. Barrington Delegate - Yes
Barbara Davis-Hassan – Lanesborough Alternate - Yes
Lauryn Franzoni – Lenox Delegate - Yes
Kyle Hanlon – North Adams Delegate - Yes
Sheila Irvin – Pittsfield Delegate - Yes
Fred Schubert – Richmond Alternate - Yes
Rene Wood – Sheffield Alternate - Yes
Roger Bolton – Williamstown Alternate - Yes
David Zink – Windsor Delegate – Yes

IX. Approval of Community Assessments for FY 2021

The Finance Committee has proposed there be no increase in community assessments for FY 2022. The amount would be the same as FY21 amount. By law, BRPC must notify municipalities of their assessments no later than February each year so that they may be included in city/town budgets. Normally the Commission deals with assessments at the January meeting but since most municipalities initiate their budget processes in December we want to provide this information to municipalities as soon as possible, especially this year. Tom explained that each community is assessed a per **capita amount that goes into BRPC's operating fund.**

Sheila Irvin moved to approve no increase in community assessments for FY2022; Lauryn Franzoni seconded. Approved with a roll call vote

Robert Ronzio – Becket Delegate - Yes
Peter Traub – Cheshire Delegate - Yes
Zack McCain – Dalton Delegate – No vote
Pedro Pachano – Gt. Barrington Delegate - Yes
Barbara Davis-Hassan – Lanesborough Alternate - Yes
Lauryn Franzoni – Lenox Delegate - Yes
Kyle Hanlon – North Adams Delegate - Yes
Sheila Irvin – Pittsfield Delegate - Yes
Fred Schubert – Richmond Alternate - Yes

Rene Wood – Sheffield Alternate – No Vote
Roger Bolton – Williamstown Alternate - Yes
David Zink – Windsor Delegate – Yes

Executive Director's Report

FY 2021 State Budget Update - Status of District Local Technical Assistance and other important priorities

Funding for the District Local Technical Assistance Program was included in the **Governor's version of the FY 21 budget as well as the House's version**. It was not included in the version of the budget released by the Senate Ways and Means.

CPTC Training

The Citizen Planner Training Collaborative (CPTC) is a collaborative made up of the Massachusetts Dept. Housing & Community Development, UMass Center for Agriculture, Mass Association of Regional Planning Agencies, Mass Chapter American Planning Association, Mass Audubon, Mass Association of Planning Directors, citizen and professional planners. It's mission is to empower land use officials to make effective and judicious decisions in the areas of development, transportation, natural resources and the environment by providing educational opportunities, access to information and resources, and by enhancing cooperation among and integration of land use boards within local government. CPTC provides training designed for Massachusetts Planners, Boards of Appeal, Zoning Enforcement Officers and others interested in land use in Massachusetts. This **fall's training sessions will be virtual**. The full schedule of trainings can be accessed here, <https://masscptc.org/training/autumn/fall-workshops-20.html>

Office Update

Due to the COVID-19 pandemic, the BRPC Office remains closed to the public. Since we could partially re-open in the summer, up to 10 staff have been allowed to be in the office on any single day. Most days there have been significantly fewer staff. With the recent surge in COVID cases, Tom requested that staff not go into the office unless it is necessary for them to do so to conduct their work responsibilities. When staff are in the office they need to keep their face covering on, except when they are in a private office with the door closed.

X. Adjournment

Sheila Irvin made a motion to adjourn; seconded by Barbara Davis-Hassan. **Unanimously** approved. Adjourned at 8:45 pm.

Materials distributed or presented during this meeting:
Meeting Agenda

Draft Meeting Minutes September 24, 2020
Executive Committee Actions Memo
2020 Annual Update on the Comprehensive Economic Development Strategy
CEDs Presentation
Pittsfield Gray to Green Project Presentation
Transportation and Climate Initiative Comment Letter
dot-tci_FactSheet2019_eng
East-West Rail Ex Summary
East-West Rail Draft Comment Letter
FY22 Assessment RECOMMENDATIONS
Executive Director's Report
Transportation and Climate Initiative Draft Comment Letter
East-West Rail Draft Comment Letter



MEMORANDUM

TO: Executive Committee, Berkshire Regional Planning Commission

FROM: Thomas Matuszko, Executive Director

DATE: January 8, 2020

SUBJ: Executive Committee Actions for December

In accordance with the bylaws, actions taken by the Executive Committee on the **Commission's behalf are** reported and presented for discussion at the next Commission meeting. The Executive Committee took the following actions at its December 3, 2020 and January 7, 2021 meetings.

Executive Committee Actions on December 3, 2020

Approved the Executive Director on behalf of the Commission to accept a grant from the Berkshire United Way on behalf of the Berkshire Leadership Impact Council.

Approval was requested to accept a grant from the Berkshire United Way on behalf of the Berkshire Leadership Impact Council to update Berkshire Benchmarks and to create regional indicators. The Berkshire Benchmark web site needs revamping. In addition, the Benchmarks site never really developed the indicators portion of the site. Working with the Berkshire Leadership Impact Council, indicators would be developed to track how Berkshire County is changing over time. The initial grant was for \$10,000, but would be increased to \$140,000 as the project progresses. BRPC contact: Mark Maloy, mmaloy@berkshireplanning.org.

Executive Committee Actions on January 7, 2021

Approved the modification to the Personnel Pay Plan by adding an Office Administrator position.

Approval was requested to modify the personnel pay plan by adding an Office Administrator position. BRPC contact: Marianne Sniezek.

Approved the Executive Director on behalf of the Commission to Submit a Response to a Request for Proposals to be a Consultant for the Local Rapid Recovery Program

Approval was requested to submit a response to and agree to any associated contract paperwork, a request for proposals to provide technical assistance to the Local Rapid Recovery Program. The Local Rapid Recovery (LRRP) Program provides technical assistance to communities who have submitted applications to address the unique economic challenges and immediate COVID-19 impacts that have affected

downtowns, town centers and commercial areas throughout Massachusetts. This program provides technical assistance. BRPC is eligible to be a technical assistance provider. BRPC contact: Tom Matuszko, tmatuszko@berkshireplanning.org.

Approved the Executive Director on behalf of the Commission to Submit a Grant Application to the Massachusetts Department of Elementary and Secondary Education (DESE) for the Berkshire Remote Learning Support Initiative.

Approval was requested for the Executive Director to submit a grant application to the Massachusetts Department of Elementary and Secondary Education (DESE) for the Berkshire Remote Learning Support Initiative and to sign any resulting contracts and agreements. The application was for \$200,000. BRPC contact: Tom Matuszko, tmatuszko@berkshireplanning.org.

Approved the Executive Director on behalf of the Commission to extend BRPC's current lease or go out to procurement for a new lease for Office Space.

The Executive Committee approved **the Executive Director to extend BRPC's current** lease for 3 months or go out to procurement for a new lease for office space. . BRPC contact: Tom Matuszko, tmatuszko@berkshireplanning.org.

Excerpts from House Bill 5250, 191st session, An Act Enabling Partnerships for Growth, related to amendments to Chapter 40A, The Zoning Act.

Section 1A of chapter 40A of the General Laws, as so appearing, is hereby amended by inserting after the introductory paragraph the following 10 definitions:

"Accessory dwelling unit", a self-contained housing unit, inclusive of sleeping, cooking and sanitary facilities on the same lot as a principal dwelling, subject to otherwise applicable dimensional and parking requirements, that:

- (i) maintains a separate entrance, either directly from the outside or through an entry hall or corridor shared with the principal dwelling sufficient to meet the requirements of the state building code for safe egress;
- (ii) is not larger in floor area than 1/2 the floor area of the principal dwelling or 900 square feet, whichever is smaller; and
- (iii) is subject to such additional restrictions as may be imposed by a municipality, including but not limited to additional size restrictions, owner-occupancy requirements and restrictions or prohibitions on short-term rental of accessory dwelling units.

"As of right", development that may proceed under a zoning ordinance or by-law without the need for a special permit, variance, zoning amendment, waiver or other discretionary zoning approval.

"Eligible locations", areas that by virtue of their infrastructure, transportation access, existing underutilized facilities or location make highly suitable locations for residential or mixed use smart growth zoning districts or starter home zoning districts, including without limitation:

- (i) areas near transit stations, including rapid transit, commuter rail and bus and ferry terminals; or
- (ii) areas of concentrated development, including town and city centers, other existing commercial districts in cities and towns and existing rural village districts.

"Gross density", a units-per-acre density measurement that includes land occupied by public rights-of-way and any recreational, civic, commercial and other nonresidential uses.

"Lot", an area of land with definite boundaries that is used or available for use as the site of a 4 building or buildings.

"MBTA community", a city or town that is:

- (i) one of the 51 cities and towns as defined in section 1 of chapter 161A;
- (ii) one of the 14 cities and towns as defined in said section 1 of said 36 of 101 chapter 161A;

(iii) other served communities as defined in said section 1 of said chapter 161A; or

(iv) a municipality that has been added to the Massachusetts Bay Transportation Authority under section 6 of chapter 161A or in accordance with any special law relative to the area constituting the authority.

"Mixed-use development", development containing a mix of residential uses and non-residential uses, including, without limitation, commercial, institutional, industrial or other uses;

"Multi-family housing", a building with 3 or more residential dwelling units or 2 or more buildings on the same lot with more than 1 residential dwelling unit in each building.

"Natural resource protection zoning", zoning ordinances or by-laws enacted principally to protect natural resources by promoting compact patterns of development and concentrating development within a portion of a parcel of land so that a significant majority of the land remains permanently undeveloped and available for agriculture, forestry, recreation, watershed management, carbon sequestration, wildlife habitat or other natural resource values.

"Open space residential development", a residential development in which the buildings and accessory uses are clustered together into 1 or more groups separated from adjacent property and other groups within the development by intervening open land. An open space residential development shall be permitted only on a plot of land of such minimum size as a zoning ordinance or by-law may specify which is divided into building lots with dimensional control, density and use restrictions for such building lots varying from those otherwise permitted by the ordinance or by-law and open land. The open land may be situated to promote and protect maximum solar access within the development. The open land shall either be conveyed to the city or town and accepted by said city or town for park or open space use, or be made subject to a recorded use restriction enforceable by said city or town or a non-profit organization the principal purpose of which is the conservation of open space, providing that such land shall be kept in an open or natural state and not be built for residential use or developed for accessory uses such as parking or roadway.

Said section 1A of said chapter 40A, as so appearing, is hereby further amended by striking out the definition of "Transfer of development rights" and inserting in place thereof the following definition: - "Transfer of development rights", the regulatory procedure whereby the owner of a parcel may convey development rights, extinguishing those rights on the first parcel, and where the owner of another parcel may obtain and exercise those rights in addition to the development rights already existing on that second parcel.

Said chapter 40A is hereby further amended by inserting after section 3 the following section: Section 3A.

(a)(1) An MBTA community shall have a zoning ordinance or by-law that provides for at least 1 district of reasonable size in which multi-family housing is permitted as of right; provided, however, that such multi-family housing shall be without age restrictions and shall be suitable for families with children. For the purposes of this section, a district of reasonable size shall:

- (i) have a minimum gross density of 15 units per acre, subject to any further limitations imposed by section 40 of chapter 131 and title 5 of the state environmental code established pursuant to section 13 of chapter 21A; and
- (ii) be located not more than 0.5 miles from a commuter rail station, subway station, ferry terminal or bus station, if applicable.

(b) An MBTA community that fails to comply with this section shall not be eligible for funds from:

- (i) the Housing Choice Initiative as described by the governor in a message to the general court dated December 11, 2017;
- (ii) the Local Capital Projects Fund established in section 2EEEE of chapter 29; or
- (iii) the MassWorks infrastructure program established in section 63 of chapter 23A.

c) The department, in consultation with the Massachusetts Bay Transportation Authority and the Massachusetts Department of Transportation, shall promulgate guidelines to determine if an MBTA community is in compliance with this section.

Section 5 of said chapter 40A, as so appearing, is hereby amended by striking out the fifth paragraph and inserting in place thereof the following paragraph:

Except as provided herein, no zoning ordinance or by-law or amendment thereto shall be adopted or changed except by a two-thirds vote of all the members of the town council, or of the city council where there is a commission form of government or a single branch, or of each branch where there are 2 branches, or by a two-thirds vote of a town meeting; provided, however, that the following shall be adopted by a vote of a simple majority of all members of the town council or of the city council where there is a commission form of government or a single branch or of each branch where there are 2 branches or by a vote of a simple majority of town meeting:

(1) an amendment to a zoning ordinance or by-law to allow any of the following as of right:

- (a) multifamily housing or mixed-use development in an eligible location;
- (b) accessory dwelling units, whether within the principal dwelling or a detached structure on the same lot; or
- (c) open space residential development;

(2) an amendment to a zoning ordinance or by-law to allow by special permit:

- (a) multi-family housing or mixed-use development in an eligible location;

(b) an increase in the permissible density of population or intensity of a particular use in a proposed multi-family or mixed use development pursuant to section 9;

(c) accessory dwelling units in a detached structure on the same lot; or

(d) a diminution in the amount of parking required for residential or mixed-use development pursuant to section 9;

(3) zoning ordinances or by-laws or amendments thereto that:

(a) provide for TDR zoning or natural resource protection zoning in instances where the adoption of such zoning promotes concentration of development in areas that the municipality deems most appropriate for such development, but will not result in a diminution in the maximum number of housing units that could be developed within the municipality; or

(b) modify regulations concerning the bulk and height of structures, yard sizes, lot area, setbacks, open space, parking and building coverage requirements to allow for additional housing units beyond what would otherwise be permitted under the existing zoning ordinance or by-law; and

(4) the adoption of a smart growth zoning district or starter home zoning district in accordance with section 3 of chapter 40R. Any amendment that requires a simple majority vote shall not be combined with an amendment that requires a two-thirds majority vote. If, in a city or town with a council of fewer than 25 members, there is filed with the clerk prior to final action by the council a written protest against a zoning change under this section, stating the reasons duly signed by owners of 50 per cent or more of the area of the land proposed to be included in such change or of the area of the land immediately adjacent extending 300 feet therefrom, no change of any such ordinance shall be adopted except by a two-thirds vote of all members.

Section 9 of said chapter 40A, as so appearing, is hereby amended by inserting after the word "interests," in line 34, the following words: - ; provided, however, that nothing herein shall prohibit a zoning ordinance or by-law from allowing transfer of development rights to be permitted as of right, without the need for a special permit or other discretionary zoning approval.

Said section 9 of said chapter 40A, as so appearing, is hereby further amended by striking out, in lines 39 and 43, the word "cluster" each time it appears and inserting in place thereof in each instance the following words: - open space residential.

Said section 9 of said chapter 40A, as so appearing, is hereby further amended by inserting, after the word "control," in line 47, the following words: - ; provided, however, that nothing herein shall prohibit a zoning ordinance or by-law from

allowing open space residential developments to be permitted as of right, without the need for a special permit or other discretionary zoning approval.

Said section 9 of said chapter 40A, as so appearing, is hereby further amended by striking out the seventh paragraph and inserting in place thereof the following paragraph: - Zoning ordinances or by-laws may also provide that special permits may be granted for reduced parking space to residential unit ratio requirements after a finding by the special permit granting authority that the public good would be served and that the area in which the development is located would not suffer a substantial adverse effect from such diminution in parking.

Said section 9 of said chapter 40A, as so appearing, is hereby further amended by inserting after the twelfth paragraph the following paragraph: - A special permit issued by a special permit granting authority shall require a simple majority vote for any of the following:

(a) multifamily housing that is located within 1/2 mile of a commuter rail station, subway station, ferry terminal or bus station; provided, that not less than 10 per cent of the housing shall be affordable to and occupied by households whose annual income is less than 80 per cent of the area wide median income as determined by the United States Department of Housing and Urban Development and affordability is assured for a period of not less than 30 years through the use of an affordable housing restriction as defined in section 31 of chapter 184;

(b) mixed-use development in centers of commercial activity within a municipality, including town and city centers, other commercial districts in cities and towns and rural village districts; provided, that not less than 10 per cent of the housing shall be affordable to and occupied by households whose annual income is less than 80 per cent of the area wide median income as determined by the United States Department of Housing and Urban Development and affordability is assured for a period of not less than 30 years through the use of an affordable housing restriction as defined in section 31 of chapter 184; or

(c) a reduced parking space to residential unit ratio requirement, pursuant to this section; provided, that a reduction in the parking requirement will result in the production of additional housing units.

Section 17 of said chapter 40A, as so appearing, is hereby amended by inserting after the second paragraph the following paragraph: - The court, in its discretion, may require a plaintiff in an action under this section appealing a decision to approve a special permit, variance or site plan to post a surety or cash bond in an amount of not more than \$50,000 to secure the payment of costs if the court finds that the harm to the defendant or to the public interest resulting from delays caused by the appeal outweighs the financial burden of the surety or cash bond on the plaintiffs. The court shall consider the relative merits of the appeal and the relative financial means of the plaintiff and the defendant.

Berkshire County – Regional Housing Strategy

BRPC, in partnership with 1Berkshire, and working with an advisory committee, is preparing a Regional Housing Strategy. Below is a list of housing “themes” facing Berkshire County which will be addressed in the Regional Housing Strategy.

Is this List Correct?

Is Anything Missing?

What Actions should be taken to Address these Themes?

Key Housing Themes Facing Berkshire County

FOSTER A DIVERSITY OF QUALITY HOUSING OPTIONS THROUGHOUT THE REGION

- Address Housing affordability and the current lack of affordable options, such as the establishment of Affordable Housing Trusts, to advocate for and help fund housing for a variety of income levels, especially considering recent urban flight.
- Educate the region on how the current supply of housing is not meeting the current and expected future needs and desires of both existing residents and newcomers (i.e., workforce housing, rentals for young professionals, housing for seniors, new housing, short term rentals for cultural institutions); as well as being a deterrent to attracting new residents to Berkshire County.
- Balance the needs of full-time residents with the demand for second homes and vacation rental properties, especially considering recent increase in migration of urban dwellers to more rural areas such as the Berkshires.
- Incentivize the upgrading of existing housing stock, particularly given the age of the existing housing stock.
- Ensure the quality of and access to the region’s rental housing stock.
- Develop sustainable source(s) of funding to encourage development of affordable housing including transitional and single room occupancy options.

CREATE A WELCOMING FRAMEWORK FOR HOUSING DEVELOPMENT

- Overcome nimby attitudes which have gotten worst recently.
- Look through the lens of the COVID-19 crisis (evictions, foreclosures), including a discussion of equity.

- Incorporate environmental justice and diversity in housing decisions.

MUNICIPAL READINESS

- Regulatory barriers to housing development – Zoning (limited high density by right, etc., inclusionary zoning).
- Lack of development readiness in smaller communities, including infrastructure.
- Lack of land availability for housing development especially land with ready access to public transportation.
- Value the benefits of diversification of housing choices in neighborhoods.

MOBILIZATION OF DEVELOPERS

- Lack of investment capital for non-affordable housing, for ownership housing and rental housing. Rents do not support the cost of constructing new housing.
- The high cost of construction and lack of experienced and well-capitalized developers.
- Need to provide compelling market demand information to developers.

ADDRESS HOUSING INSECURITY

- Educate the region on the dynamics and complexity of issues that create housing insecurity.
- Advocate for a more active role by the interfaith, human service agencies, and health care entities in communications about and developing strategies to address housing insecurity and homelessness, including mental health, addictions, and poverty.
- Foster a regional approach to addressing sheltering and transition housing needs.



BRPC

Berkshire Regional Planning Commission

KYLE HANLON, Chair
JOHN DUVAL, Vice-Chair
SHEILA IRVIN, Clerk
MALCOLM FICK, Treasurer
THOMAS MATUSZKO, A.I.C.P.
Executive Director

MEMORANDUM

TO: Delegates & Alternates, Berkshire Regional Planning Commission
FROM: Thomas Matuszko, AICP, Executive Director
DATE: January 15, 2021
SUBJ: **Executive Director's Report**

A. Mass Internet Connect

The Baker Administration recently announced a new subsidy program, called "Mass. Internet Connect" (<https://broadband.masstech.org/mass-internet-connect>). Launched by the MBI in partnership with the Executive Office of Labor and Workforce Development (EOLWD), and working with MassHire one-stop career centers on the rollout of the program and collaborating with internet service providers across the state, including Comcast, Charter, and Verizon, this program will offer subsidies and devices to job seekers. In addition, MBI will expand a Wi-Fi hotspot program statewide, delivering free high-speed access points to Gateway Cities, helping expand internet accessibility in areas hard-hit economically by the COVID-19 pandemic. The programs are part of the \$774 million economic recovery plan announced by the Administration in October. See attached press release.

B. Session Ending Legislative Push

The Massachusetts Legislature passed three major pieces of legislation at the very end, literally, of the last session: a Climate Bill, Economic Development Bill and Transportation Bond bill.

- The Climate Bill was recently vetoed by the Governor. This was partially due to the late passage of the bill and not enough time in the session for the legislature to consider partial vetoes. The Governor has expressed his overall support for climate legislation. There were, however, differences in the Administration and legislature's versions, which he could not support. (See attached letter.)
- The Economic Development Bill was passed by the legislature and approved by the Governor, with certain line item vetoes. There are many important provisions in that legislation that will be beneficial to Berkshire County. Unfortunately, the creation of the Office of Rural Policy, a high priority for the Rural Policy Advisory Commission, was not approved. (See attached letter.)
- The Transportation Bond Bill was passed by the legislature and as I write this, it is on the Governor's desk for consideration. In addition to much-needed funding for roads and bridges, significant funding is included for

the Complete Streets program, a popular program for Berkshire County communities. Funding is also included for important rail efforts, such as the Berkshire Flyer and East-West rail. We will update the Commission at the meeting.

C. Office Update

Due to the COVID-19 pandemic, the BRPC Office is still closed to the public. In addition, in response to Governor Baker's most recent directives, a very small number of staff, 4-6 at any one time, are allowed in the office. Many days there have been fewer staff. When staff are in the office they need to keep their face covering on, except when they are in a private office with the door closed.

EMERGENCY ALERTS

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PRESS RELEASE

Baker-Polito Administration Launches Programs to Boost Internet Connectivity

Statewide Effort to Assist Job Seekers and Unserved Residents, Drive Economic Recovery

FOR IMMEDIATE RELEASE:

1/05/2021

Office of Governor Charlie Baker and Lt. Governor Karyn Polito

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SPRINGFIELD — Today, the Baker-Polito Administration announced three new programs to boost internet connectivity statewide, including a subsidy program to assist job seekers in the MassHire system that are

facing a technology barrier. In addition, the Massachusetts Broadband Institute (MBI) at the MassTech Collaborative will expand a WiFi hotspot program statewide, delivering free high-speed access points to Gateway Cities, helping expand internet accessibility in areas hard-hit economically by the COVID-19 pandemic. The programs are part of the \$774 million economic recovery plan [announced by the Administration in October](#)

[\(/news/baker-polito-administration-announces-partnerships-for-recovery-774-million-economic-recovery\)](#), which designated \$9.2 million for an expansion of internet access programs. Governor Charlie Baker, Lt. Governor Karyn Polito, administration officials, and private partners made the announcement during an event held at the Springfield Innovation Center.

The new subsidy program, called “[Mass. Internet Connect](https://broadband.masstech.org/mass-internet-connect) (<https://broadband.masstech.org/mass-internet-connect>),” is being launched this week by the MBI in partnership with the Executive Office of Labor and Workforce Development (EOLWD), working with 29 MassHire one-stop career centers on the rollout of the program. The MBI is collaborating with internet service providers across the state, including Comcast, Charter, and Verizon, to offer subsidies and devices to job seekers. The internet subsidies and technology support will help keep job seekers connected to critical online resources and job search tools.

“The internet is critical to those seeking a new job, and these new programs recognize and aim to help solve connectivity challenges for people looking for work,” **said Governor Charlie Baker**. “These investments will help to get and keep people connected, so they can continue to engage with prospective employers, access the trainings and services offered by MassHire and their partners, and ultimately get back into the workforce.”

“These new programs are focused on jumpstarting the economy by getting job seekers and others the means to stay connected,” **said Lt. Governor Karyn Polito**. “By ensuring that Massachusetts students and job seekers have the connections they need, we are maintaining the education and training that is so critical to our workforce pipeline here in the Commonwealth.”

MassHire will work with job seekers within their system to identify technology barriers and determine the best solution or combination of solutions, including:

- Online resources for digital literacy;
- An internet subsidy for those residing in a municipality with Charter or Comcast access;
- A personal cellular hotspot from Verizon, for those in areas not served by Charter or Comcast; or
- A referral to a partner vendor, HiQ, which is distributing Chromebooks to persons that do not have access to a device at home to conduct a job search.

“For those job seekers interested in getting assistance with their technology barriers, the first step is to get into the MassHire system,” **said Secretary of Labor and Workforce Development Rosalin Acosta**. “Being in that system allows us to provide the personalized services and unemployment support that each job seeker needs. These new programs will allow us to bridge the unique technology gaps that individual job seekers face, whether an affordability or access issue.”

“The pandemic has had a profound impact on our economy, but programs like these will help us battle back and put us on the path to recovery,” **said Secretary of Housing and Economic Development Mike Kennealy**. “In June, we saw unemployment reach a high of 17.7 percent, but that number has dropped to 6.7 percent in

the last few weeks, with 12,000 new jobs added in November. We're pleased with that progress, but are continuing to invest in programs like Mass. Internet Connect, which will get more people back to work."

The program will run through June 30, with the state covering the cost of subsidies for internet service and devices on behalf of the job seekers. Job seekers must be in the MassHire system to take advantage of the Mass. Internet Connect program. MassHire resources are available at <https://www.mass.gov/topics/masshire> ([/topics/masshire](https://www.mass.gov/topics/masshire)). The MBI has participated in trainings for the [29 MassHire one-stop career centers](https://www.mass.gov/topics/masshire) ([/masshire-career-centers/locations](https://www.mass.gov/topics/masshire)) located across the state, preparing them to identify and support those clients facing technology barriers.

The Commonwealth's programs will supplement the existing programs launched by providers in response to COVID-19 earlier this year.

"Comcast appreciates the practical, pragmatic leadership shown by Governor Baker and Lt. Governor Polito during this pandemic and we are proud to be playing a role in the Commonwealth's economic recovery," **said Dennis Mathew, Senior Vice President for Comcast's Western New England Region.** "There is no question that adoption of internet service and expansion of broadband networks to unserved addresses has been critical, especially during the last nine months. Comcast's network has performed incredibly well and we continue to deliver the services and support our customers need for working and learning at home."

"For Massachusetts residents who are looking for a job, having Internet access is not a luxury, it's essential to their search," **said Michael Caralis, Director, Verizon Public Sector.** "Verizon is committed to helping bridge the digital divide. Working with the commonwealth and MassHire to obtain hotspots and unlimited data for job seekers without Internet access is one way Verizon can help with economic recovery efforts."

"From extending our network to rural areas, to partnering with the Commonwealth of Massachusetts to help make high-speed broadband more accessible to those in need, Charter is committed to delivering critical connectivity and helping to bridge the digital divide in local communities where our customers live and work," **said Camille Joseph, Group Vice President, Government Relations, Charter Communications.**

Another new program being launched to address the economic impact of COVID-19 is an expansion of free community WiFi hotspots across the state, targeting Gateway Cities and outer Cape Cod towns that will not be served through private provider initiatives. The new sites will offer communities the opportunity to establish both outdoor and socially-distanced indoor access to high-speed internet, helping boost free internet connection points for residents. These new public hotspots will supplement the efforts of private providers, targeting municipalities where additional free options are needed.

Also supported by the Partnerships for Recovery funding was the extension and expansion of the MBI's WiFi Hotspot Program in 30 unserved communities in western and central Massachusetts, towns being supported by the Commonwealth's Last Mile broadband expansion program. The announcement was previously [made in early December,](https://broadband.masstech.org/press-releases/baker-polito-administration-extends-wireless-hotspot-program-unserved-massachusetts-0) (<https://broadband.masstech.org/press-releases/baker-polito-administration-extends-wireless-hotspot-program-unserved-massachusetts-0>) with the MBI extending the program up to June 30, 2021, and offering eligible communities the option to add a free indoor hotspot, an expansion of the program that will help provide critical connectivity over the winter months. The state funding will cover the costs of wireless equipment, installation, maintenance, related operational expenses, and monthly internet service charges for both outdoor and indoor hotspots. MBI will

also offer grants to towns that host an indoor hotspot to assist with costs to implement measures that will provide an appropriate environment for hotspot users, such as installation of plexiglass dividers and staff to monitor the hotspot and ensure proper social distancing among hotspot users.

The Commonwealth's Last Mile program has invested over \$55 million in direct grants to close broadband access gaps, bringing the total to 29 of 53 communities with completed projects. The 29 completed projects have delivered broadband connections to an estimated 25,000 citizens since 2016.

"We've made great strides in closing the gaps in unserved towns and the expansion and extension of the WiFi Hotspot program recognizes the need that still exists in these communities, from small business owners, educators, students, and residents connecting with family members," **said Carolyn Kirk, Executive Director of the MassTech Collaborative, the parent agency of the MBI.** "As more Last Networks are launched in 2021, more of these residents will be able to access high-speed connections from their homes and businesses. We're looking forward to celebrating more of these launches in the new year."

A full list of the available WiFi hotspots in Last Mile communities [can be found on MBI's website \(https://broadband.masstech.org/wifi\)](https://broadband.masstech.org/wifi). Each site provides residents with instructions on how to access the hotspots and residents who connect to the wireless service are urged to follow social distancing protocols in accordance with the guidance issued by the [Massachusetts Department of Public Health \(/info-details/covid-19-updates-and-information\)](https://info-details/covid-19-updates-and-information). Partners on the hotspots in Last Mile communities are KCST/Mass Networks, Westfield Gas + Electric (WG+E), Crocker, and Access Plus.

About the Massachusetts Broadband Institute

A division of the Massachusetts Technology Collaborative, the Massachusetts Broadband Institute (MBI) is working to extend high-speed Internet access to homes, businesses, schools, libraries, medical facilities, government offices, and other public places across the Commonwealth. Learn more at

<https://broadband.masstech.org>

<https://mass.us20.list-manage.com/track/click?u=d76848d6925ee08d7a5fe3097&id=f720b11265&e=fe187eb81a>.

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CHARLES D. BAKER
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KARYN E. POLITO
LIEUTENANT GOVERNOR

January 14, 2021

To the Honorable Senate and House of Representatives,

The Commonwealth needs bold and urgent action on climate change, which is why my Administration has worked closely with the Legislature to advance the development of clean energy, reduce emissions, and establish a bold, new goal of Net Zero greenhouse gas (GHG) emissions by 2050. As the state commits to these ambitious targets, our approach must be data-driven, built on a solid policy framework, and allow us to meet our emissions reductions goals while maintaining a healthy, equitable, and thriving economy in Massachusetts.

On the evening of January 4, 2021, you laid on my desk Senate Bill No. 2995, "An Act creating a next-generation roadmap for Massachusetts climate policy." While I support the bill's goals and am largely in agreement with many of its proposals, 35 hours was not enough time to review and suggest amendments to such complex legislation. Over the past ten days, my Administration has worked diligently to review Senate Bill No. 2995 and, for the reasons explained hereafter, there are certain provisions in this bill to which I cannot agree. Had this bill been presented to me with more time while the Legislature was still in session, I would have returned it with amendments to address the concerns set out in this letter. Unfortunately, because the Legislature has adjourned, I do not have that option, and therefore, reluctantly, I cannot sign the legislation as currently written for the following reasons:

- As written, the legislation will work against the critical intent of the recently enacted Housing Choice legislation, and this is a time when the Commonwealth needs more affordable housing.
- There is nothing in this bill to adapt to the ongoing and future impacts of climate change. If we intend to comprehensively address climate change, we must give ourselves and our colleagues in local government the tools necessary to create a Commonwealth that is more resilient to the destructive weather events and natural disasters we continue to face because of ongoing climate change.
- While my Administration wholeheartedly supports the environmental justice goals of this bill, intent without the tools to address those issues are empty promises. This bill does not have language or funding to address the ongoing impacts of climate change faced by those communities.

- We are in the midst of working with all the Northeastern states on a massive undertaking to change the way we all procure clean energy. We are working together because we share the same power grid and there is a tremendous opportunity to make a major difference if we work as a region on building clean power solutions. Certain provisions in this bill will endanger that work.
- Many of the mandates in this legislation are not supported by scientific and detailed data analysis, and ignore the very important criteria for making decisions established by the GWSA, which remains the North Star for all of our efforts here in the Commonwealth.
- Finally, the Massachusetts economy is just beginning to recover from the pandemic downturn caused by the novel coronavirus known as COVID-19. As we are all learning what the future will hold, I have concerns about the impacts portions of this bill will have for large sectors of the economy.

I commend the Legislature for including important provisions in Senate Bill No. 2995, related to environmental justice, Net Zero, natural gas pipeline safety, and energy efficiency standards for appliances. I understand that the Legislature intends to refile Senate Bill No. 2995, and look forward to working with both chambers in the coming days to improve the bill and quickly reach agreement on ambitious, bipartisan legislation that builds upon Massachusetts' leadership in addressing climate change.

While we are in agreement on our climate goals, we differ on how these goals should best be achieved. Critically, the proposed legislation relies on certain out-of-date policies to reduce emissions and does not use exhaustive scientific data and analysis compiled by the Administration over the course of two years, as required by the Legislature under the Global Warming Solutions Act of 2008 (GWSA), to support its conclusions. Furthermore, the bill does not acknowledge essential issues like climate adaptation and resiliency, the urgent need to develop affordable housing, and ensuring a cost-effective and equitable transition to a clean energy future.

Our Commonwealth faces a housing shortage that threatens the future of families and businesses throughout the state, which is why my Administration filed *An Act to Promote Housing Choices* to ease barriers to the development of affordable housing. My Administration has heard significant concerns from stakeholders regarding the Legislature's proposal for a net zero energy stretch code, which could slow the development of new housing while raising costs for Massachusetts families. Rick Sullivan, CEO of the WesternMass Economic Development Council and former Secretary of Energy and Environmental Affairs under Governor Deval Patrick, noted that "[w]hile there are many aspects of the TUE conference report that are worthwhile, creating a new building code with undefined terms like 'net zero building' is, quite literally, dangerous. It will likely result in construction slowing or outright stopping in many localities due to unknown, and right now, unknowable new requirements. Such a requirement is neither sound nor sustainable economic development or energy policy." And the Massachusetts Building Trades Council warns that the legislation's language relative to the "stretch building code" would "result in a multitude of building codes across the Commonwealth with the possibility of codes being changed mid-development potentially causing a suspension of new construction." While my Administration supports developing and proposing a new high-

performance energy stretch code to the Board of Building Regulation and Standards as detailed in our Clean Energy and Climate Plan, it is imperative that any such proposal is executed in a manner that does not impact the production of affordable housing stock and offers opportunity for public input and dialogue with all stakeholders.

Reducing emissions must be the first line of defense against climate change, but each year Massachusetts communities face greater threats and costs from climate impacts like severe storms, sea level rise, flooding, and droughts, and any comprehensive proposal must include tools to reduce the impacts of ongoing climate change and provide new funding to build a more resilient Commonwealth. Senate Bill No. 2995 missed a significant opportunity by not also addressing our ability to build greater resiliency in the Commonwealth. Two years ago, I filed Senate Bill 10, which would provide \$130 million annually for communities to address resiliency challenges. This legislation unfortunately did not advance, despite the benefits it would have for communities and residents across the Commonwealth, the growing cost of climate change, and the significant need demonstrated through my Administration's Municipal Vulnerability Preparedness program.

My Administration remains committed to supporting environmental justice communities and agrees wholeheartedly with the Legislature that strong consideration for the Commonwealth's most vulnerable residents must be part of any comprehensive climate legislation. However, environmental justice communities are not only overburdened by global warming pollution, but are the most impacted by the growing effects of climate change and are least able to adapt. Therefore, it is imperative that any proposed environmental justice language address the ongoing impacts of climate change as environmental burdens faced by these communities.

Almost a year ago, recognizing the scientific consensus that bold, urgent action is required to mitigate and prevent the most severe impacts of climate change, my Administration committed the Commonwealth to an ambitious and legally binding limit of Net Zero emissions by 2050. To determine how to best achieve this limit affordably and equitably, my Administration completed a comprehensive two-year, science-based analysis of the pathways that would position the Commonwealth to reach Net Zero by 2050. As a result of this first-in-the-nation comprehensive study, on December 30, 2020 we released our 2050 Decarbonization Roadmap (Roadmap), the Massachusetts Clean Energy and Climate Plan (CECP) for 2030, and Energy and Environmental Affairs Secretary Theoharides established a statewide GHG emissions limit of 45% below the 1990 GHG emissions level for 2030. The Roadmap includes a detailed analysis of pathways to Net Zero emissions, including an analysis of potential energy resources, projected energy demand, and the supply necessary to meet the demand in all sectors of the economy. Building on that analysis, the CECP for 2030 outlines a detailed plan and the policies needed to implement over the next decade to meet the 2030 emissions limit of 45% below 1990 levels.

Senate Bill No. 2995 requires additional interim emissions limits, new sublimits for particular sectors of the economy, and mandates that the limit for 2030 be at least 50% below 1990 levels. While the Administration and the Legislature are in agreement on the need to achieve Net Zero by 2050, scientific analysis shows that requiring emissions reductions greater

than 45% in 2030 risks imposing undue expense and unnecessary economic impact on Massachusetts households and businesses – including those that can least afford it. The Administration's analysis is clear that the difference between 45% and 50% means significantly more cost – an additional \$6 billion in costs incurred by residents – and associated impacts for the state economy. Unfortunately, this higher cost does not materially increase the Commonwealth's ability to achieve its long-term climate goals.

Further, sector-based sublimits add unnecessary hurdles to achieving emissions reductions in a cost-effective and equitable manner by artificially requiring that emissions in a given year must reduce in a given sector, rather than allowing the Commonwealth to achieve emission reductions more holistically and efficiently. As illustrated in the Administration's CECP for 2030, 2050 Decarbonization Roadmap, and 2030 Emissions Limit Determination letter – all released before the Legislature passed this bill – the 45% limit set by the Administration and supported by scientific analysis is a nation-leading target that positions the Commonwealth to achieve Net Zero by 2050 cost-effectively and equitably. The CECP for 2030 and 2050 Decarbonization Roadmap also highlight the importance of developing an inventory for carbon sequestration from natural and working lands and other sources in reaching Net Zero by 2050, a critical opportunity missed by the Legislature which we believe merits due consideration given its significant role in helping the Commonwealth achieve its climate goals.

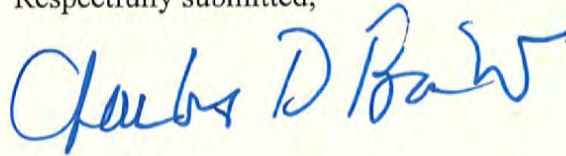
In addition to changing the manner in which the GWSA authorizes emissions limits, this bill would amend foundational definitions and authorities in the GWSA. As written, those amendments could have serious, negative repercussions for existing and planned regulatory initiatives to reduce GHG emissions in the Commonwealth, including the Transportation and Climate Initiative Program. These definitions are an example of a proposal to which I would have proposed amendments if I had the opportunity.

Our Administration has partnered with the Legislature to secure nation-leading procurements of offshore wind and hydropower, and is working to ensure that those new clean energy resources are built and interconnected to provide cost-effective clean power to Massachusetts ratepayers. As demonstrated in the Administration's 2050 Decarbonization Roadmap, a balanced clean energy supply anchored by offshore wind can help the Commonwealth achieve Net Zero by 2050 in a cost-effective manner while supporting job creation in Massachusetts. However, my Administration believes that rather than choosing clean energy winners and losers, we should instead let the resources compete in a manner that delivers the most benefit at the least cost to Massachusetts ratepayers. To that end, in October 2020 the Commonwealth joined other New England states in calling for a multi-state effort to pivot our regional electricity system planning and market structure to ensure the region is able to achieve our shared climate goals. We urge the Legislature to allow this process to reform our regional energy system to mature over the coming months, at which point we will better understand whether future state procurements are necessary, or if opportunities for regional procurements and coordination emerge as a more effective approach to secure clean energy resources while protecting Massachusetts ratepayers.

For all of these reasons, I am returning this bill unsigned. While I cannot sign Senate Bill No. 2995, I strongly commend the Legislature's work to pass legislation that addresses the

urgent challenge of climate change, which presents a growing threat to our residents, environment and economy. In the coming days, I look forward to the opportunity to engage in a constructive, thoughtful dialogue on these important policy proposals with our partners in the Legislature to set the Commonwealth on a path for Net Zero by 2050 through aggressive, equitable and science-based climate action while protecting the state's economy and most vulnerable residents.

Respectfully submitted,

A handwritten signature in blue ink, reading "Charles D. Baker". The signature is fluid and cursive, with the first name "Charles" being the most prominent part.

Charles D. Baker
Governor



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CHARLES D. BAKER
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LIEUTENANT GOVERNOR

January 14, 2021

To the Honorable Senate and House of Representatives:

Pursuant to Section 5 of Article LXIII, as amended by Article XC, Section 4 of the amendments to the Constitution, I am today signing House Bill 5250, "An Act enabling partnerships for growth," and vetoing certain portions as noted below.

In 2019, the Baker-Polito Administration announced a new economic development plan, entitled *Partnerships for Growth: a plan to enable the Commonwealth's regions to build, connect, and lead*. The framework outlined in that plan guided the approach taken in the bill, H. 4529, I filed in early March 2020. One week after filing that bill, I declared a state of emergency to respond to the spread of the novel coronavirus that causes COVID-19. Residents of the Commonwealth experienced unprecedented disruption as businesses complied with restrictions I put in place to slow the spread of the virus. Although we have since reopened much of the economy and started the economic recovery process, we have much work to do in the months ahead to assist those who lost jobs, to help businesses recover, and to restore the same economic vitality the Commonwealth enjoyed prior to the pandemic.

The legislation I am signing today will better position the Commonwealth to address and respond to these challenges. My Administration worked closely with the Legislature over the summer to make strategic adjustments to the bill to address needs arising from the pandemic. I want to acknowledge your partnership on this legislation, which is the third economic development package signed by this Administration, but the only one we adjusted in real time to respond to unprecedented public health and economic crises. None of that would have been possible without tremendous collaboration.

This legislation provides more than \$626 million in capital authorization to drive economic growth and improve housing stability over the next five years. I am grateful to the Legislature for authorizing \$50 million to neighborhood stabilization, \$50 million for transit-oriented housing development, and \$10 million in climate resilient housing that will allow the Commonwealth to support more sustainable and resilient housing. Communities around the state will benefit from a \$40 million authorization for the revitalization of underutilized properties and \$10 million for regional and community assistance, tools that are more important than ever for

the COVID-19 recovery. Recognizing the challenges that rural and small towns face, the new rural and small town development fund will provide up to \$20 million to support municipalities on local goals.

The Commonwealth's dynamic business ecosystem is core to the continuing success of our economy. This bill directs capital dollars to support advanced manufacturing and target new and emerging opportunities through the technology research and development fund. Importantly, this bill also dedicates key resources for underserved populations with \$25 million in authorization for microbusinesses and another \$35 million for grants to community development financial institutions and community development corporations to support women-owned and minority-owned businesses.

Although these capital authorizations will allow us to make important investments to accelerate economic growth and recovery, I do feel compelled to note that the total authorization in the legislation exceeds what the Commonwealth has budgeted so far. Capital authorization is the necessary first step before a project can be funded through the capital investment plan.

The legislation also includes many policy changes that will help our businesses, workers and residents. Foremost among these are the Housing Choice provisions I proposed more than three years ago to make it easier to build housing in communities that want it. Passing Housing Choice has been among my top priorities for the past two legislative sessions, and, thanks to your partnership, I am pleased to sign those provisions into law. These sections of the bill represent the first significant zoning reform in decades, and I am grateful that we found a way to get it done. The legislation also includes a section that will encourage multifamily zoning in MBTA communities. Although I did not propose that section, I am signing it because the law gives my Administration considerable discretion to determine compliance. I expect the relevant agencies will work diligently with cities and towns to develop compliance criteria that are fair and reasonable, with due regard for different needs in different communities, and for the time and effort it takes to create new zoning districts.

This legislation features a number of other policy provisions in its outside sections, many proposed by my Administration, and others added during the legislative process. Of the 111 total outside sections, I am signing 100, and vetoing 11. The sections I am vetoing, and the reasons for the veto, are as follows:

Housing Development Incentive Program (HDIP) Affordability Requirement

I am vetoing sections 48, 50 and 55, which collectively would require housing development projects benefiting from an HDIP tax credit to have at least 10 percent affordable units. The HDIP program has helped to produce hundreds of market rate units in our Gateway cities, which has been the goal of the program since its inception. Adding an affordability requirement will make these projects more difficult to finance and add a layer of administrative complexity that is not consistent with the program's goals. We will continue to make significant investments in affordable housing production through other successful programs, such as the state low income housing tax credit. Also, this bill doubles the cap on state LIHTC for the next five years from \$20 million to \$40 million per year.

Rural Jobs Tax Credit

I also am vetoing sections 62, 106 and 113, which would establish a new “rural jobs tax credit.” The stated purpose of this tax credit is to “attract capital investment to businesses in rural areas of the commonwealth in order to promote the retention and expansion of existing jobs, stimulate the creation of new jobs, and attract new business and industry to rural areas of the commonwealth.” But, the program is unlikely to have the desired effect, and as drafted presents numerous implementation challenges. Experience with similar programs in other states demonstrates that these tax credits are likely to provide much greater benefit to the corporate investors who receive the credits than to the rural communities it is supposed to help. Moreover, this section would allow for deployment of tax credits to support investments in communities that are not truly rural, and therefore would not target the incentive where it is needed most. In lieu of approving this program, I am committed to making more direct investments in rural communities, both this year as part of the COVID-19 recovery program, and in future years consistent with the goals and strategies in the economic development plan. These direct investments will have much greater impact on job creation and business expansion in rural communities.

Registration of Motor Vehicles

I also am vetoing section 63, which would require the registry of motor vehicles, prior to issuing a registration for a motor vehicle, to confirm the validity and status of the applicant’s driver’s license and certify that the person is in compliance with applicable rules and regulations related to licensing. This requirement, though well intentioned, would effectively prevent the issuance of registrations for vehicles owned by persons with an out of country or out of state driver’s license. The requirement would also cause issues with the issuance of registrations for vehicles owned by one person but used by other family members.

Tenant Right of Purchase

I also am vetoing section 83, which would allow cities and towns to adopt an ordinance or bylaw that dramatically alters the rights of certain residential property owners to sell that property. The owners of affected properties would be required to, among other things: provide notice of an intended sale to the municipality and each tenant household; offer a tenant association the opportunity to make an offer to purchase the property prior to entering into an agreement to sell the property; and offer the tenant association a right of first refusal if the owner enters into a sales contract with a third party. With some exceptions, these requirements would apply to all multi-unit housing, including market-rate housing, in a city or town that accepts its provisions. These requirements would significantly delay the sale of multifamily homes throughout the Commonwealth, and potentially chill the production of new housing when we desperately need to produce more. Because a viable exit strategy often is critical to a developer’s willingness to undertake a project, I am concerned that making multifamily sales transactions more unpredictable will result in less investment and construction of fewer new rental units. As I have said many times in recent years, the Commonwealth is facing a housing

crisis. We simply cannot risk exacerbating that crisis by making it harder to produce, and sell, multifamily housing.

Eviction Record Sealing

I also am vetoing section 85, which would create a process for sealing records in eviction cases. I am keenly aware that many families are facing financial hardship and may be at risk of eviction due to job loss, reduced work hours, illness or other reason related to the pandemic. And I recognize that an eviction record makes it harder for a tenant to find new housing. However, this section would allow for records to be sealed not just in no-fault eviction cases, but in every eviction case in which a judgment has been satisfied—even in a case where a tenant was evicted for endangering other tenants or engaging in criminal activity. Keeping this kind of information sealed is unfair to landlords and creates unnecessary risks for other tenants. Additionally, the trial courts have indicated this section would impose a significant administrative burden, especially in light of the challenges caused by the need to process cases remotely during the state of emergency, and the need to focus limited judicial resources on eviction diversion for the foreseeable future.

Minority and Women-Owned Enterprises in Public Construction Projects

I also am vetoing section 95, which proposes to form a special commission to study the participation of minority and women-owned enterprises in public construction projects. With the support of the Black and Latino Legislative Caucus, I filed legislation on this exact topic in the 2019-2020 legislative session, House 4511, “An Act to Expand Opportunities for Minority and Women Business Enterprises in Public Construction Projects.” That legislation, which I anticipate will be refiled in this new legislative session, would have both increased the thresholds to which the Commonwealth’s filed sub-bid requirements apply in public construction projects, and would have allowed DCAMM to set participation goals on sub-contracted work in projects over \$5 million. With other proposals in the bill, that legislation would have created countless opportunities for minority and women-owned business enterprises. That legislation resulted from years of study, notably including the disparity study completed by DCAMM and published at the end of calendar year 2017. The commission proposed in Section 95 is unnecessary, both because of this prior work and because the issues to be considered can all be considered as part of the joint committee work on the refiled version of H.4511.

Delayed Effective Date for Housing Choice

Finally, I am vetoing section 102, which would delay the effective date of the Housing Choice provisions for 90 days. As I noted earlier, Housing Choice is the first significant zoning reform in decades. Cities and towns should be able to take advantage of the revised voting thresholds immediately.

The remainder of this bill I approve.

Respectfully submitted,

A handwritten signature in blue ink, appearing to read "Charles D. Baker", with a stylized flourish at the end.

Charles D. Baker
Governor