

BERKSHIRE REGIONAL PLANNING COMMISSION
1 FENN STREET, SUITE 201, PITTSFIELD, MASSACHUSETTS 01201
TELEPHONE (413) 442-1521 · FAX (413) 442-1523

Massachusetts Relay Service: TTY: 771 or 1-800-439-2370

www.berkshireplanning.org

SHEILA IRVIN, Chair
KYLE HANLON, Vice-Chair
MARILYN WILEY, Clerk
CHARLES P. OGDEN, Treasurer

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

AGENDA

Rest of River Municipal Committee
January 10, 2014 -- 9:00 a.m.
Stockbridge Town Offices

1. Introductions
2. Review of minutes of November 18, 2013 meeting
3. Executive Session: to Discuss Negotiating Position & Demonstrably Threatened Litigation Against GE and/or EPA
 - Negotiations with GE and/or EPA
 - Further Analysis Work on Various Aspects of Impacts?
4. Budget update
 - Existing budget
 - District Local Technical Assistance grant
 - Budget for coming year
5. Other Business
6. Adjournment

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Meeting Minutes
Rest of River Municipal Committee
January 10, 2014 @ Stockbridge Town Offices

1. Introductions. The meeting opened at 9:05 a.m.

Attending the session were the following Committee members:

Daniel Bianchi, Pittsfield Mayor

Pat Carlino, Lee Select Board

Doug Clark, Pittsfield Community Development Dir.

Lauren Gaherty, BRPC

Nat Karns, BRPC

Jim McGrath, Pittsfield Park, Open Space, and Nat. Res. Program Manager

Jorja Marsden, Stockbridge Town Administrator

Bob Nason, Lee Town Manager

Jennifer Tabakin, Great Barrington Town Manager

Jeff Vincent, Lenox Special Projects Manager

Also attending via speaker phone:

Benjamin Krass, Attny, Pawa Law Group, P.C.

Matthew Pawa, Attny, Pawa Law Group, P.C.

2. Review of minutes of Nov. 18, 2013. Jorja noted that she arrived late to the Nov. 18th meeting, so the minutes should reflect her attendance. Motion to accept meeting minutes as amended by Pat Carlino and seconded by Jorja Marsden. Approved unanimously as amended.

3. Executive Session: Discussions with attorney Matthew Pawa. Chair Nat Karns stated that the Committee needed to go into Executive Session to discuss its negotiating position with its attorney regarding demonstrably threatened litigation against GE and/or EPA. Discussing our negotiating position in open meeting will have a detrimental effect on those negotiations. He requested a motion.

At 9:08 a.m., motion to enter executive session made by Mayor Bianchi and seconded by Pat Carlino. The following members voted in the affirmative by roll call to enter executive session: Bianchi, Vincent, Carlino, Marsden, Tabakin (Sheffield was absent).

4. **Budget update.** At 11:00 a.m. the Committee came out of Executive Session. BRPC passed out updated invoices to each of the Committee members that reflected BRPC costs October through December 2013 and Pawa Law Group costs for December 2013. The Committee then discussed the budget needs for the coming year. Nat announced to the Committee that BRPC has allocated money through a District Local Technical Assistance grant to pay for BRPC's staff time for Rest of River. The discussion then turned to what funding would be needed beyond the current budget for legal and other fees, and what that amount would be per Rest of River municipality. Although Sheffield was not able to attend the meeting, Nat reported that Rene Wood of Sheffield stated that the town would like to continue to participate but will likely not be able to contribute another \$10,000 to the fund. Each municipality in attendance agreed to again allocate \$10,000. It was acknowledged that the Town of Sheffield's intent was not known, as there was no representative from the town at the meeting. Motion for each municipality to place \$10,000 on their next fiscal year budget for future Rest of River costs, subject to appropriation, with the possible exception of Sheffield, by Mayor Bianchi and seconded by Jeff Vincent. Approved unanimously (Sheffield absent).
5. **Other Business.** The next meeting of the Committee was set for Jan. 27, 2014.
6. **Adjournment.** The meeting adjourned at 11:17 a.m.

Respectfully submitted,
Lauren Gaherty, Senior Planner, BRPC

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December 23, 2013

Re: Pawa Law Group Invoice – November 2013

Dear Rest of River Committee Members –

Berkshire Regional Planning Commission (BRPC) has received, on behalf of the Rest of River Committee, an invoice from the Pawa Law Group for costs incurred through November 2013. BRPC staff have reviewed the invoice and found it to be in accordance with the Intergovernmental Agreement and the BRPC/Pawa legal services agreement.

The current share of the attached November bill to each of the municipalities is \$2, 622.60 (see attached invoice). Please remit payment to the Berkshire Regional Planning Commission.

If you have any questions, please contact Nat Karns or Lauren Gaherty.

Best,



Lauren Gaherty, Senior Planner
lgaherty@berkshireplanning.org

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* * * * * INVOICE * * * * *			
TO: City of Pittsfield City Hall 70 Allen Street Pittsfield, MA 01201 ATTN: Doug Clark		DATE: 12/23/13	
	DESCRIPTION		AMOUNT
	Pawa Law Group, PC Legal Services through November 2013 -- total	\$ 15,735.60	
	Amount due		\$ 2,622.60
TOTAL AMOUNT DUE:			\$ 2,622.60

Remit To: Berkshire Regional Planning Commission
1 Fenn St., Suite 201
Pittsfield, MA 01201

Contact: Lauren Gaherty

Terms: Net 30

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* * * * * INVOICE * * * * *			
TO: Town of Lenox Town Hall 6 Walker Street Lenox, MA 01241 ATTN: Jeffrey Vincent		DATE: 12/23/13	
	DESCRIPTION		AMOUNT
	Pawa Law Group, PC Legal Services through November 2013 -- total	\$ 15,735.60	
	Amount due		\$ 2,622.60
TOTAL AMOUNT DUE:			\$ 2,622.60

Remit To: Berkshire Regional Planning Commission
1 Fenn St., Suite 201
Pittsfield, MA 01201

Contact: Lauren Gaherty

Terms: Net 30

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* * * * * INVOICE * * * * *			
TO: Town of Lee Town Hall 32 Main Street Lee, MA 01238 ATTN: Bob Nason		DATE: 12/23/13	
	DESCRIPTION		AMOUNT
	Pawa Law Group, PC Legal Services through November 2013 -- total	\$ 15,735.60	
	Amount due		\$ 2,622.60
TOTAL AMOUNT DUE:			\$ 2,622.60

Remit To: Berkshire Regional Planning Commission
1 Fenn St., Suite 201
Pittsfield, MA 01201

Contact: Lauren Gaherty

Terms: Net 30

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* * * * * INVOICE * * * * *			
TO: Town of Stockbridge Town Offices 50 Main Street Stockbridge, MA 01262 ATTN: Jorja Marsden		DATE: 12/23/13	
	DESCRIPTION		AMOUNT
	Pawa Law Group, PC Legal Services through November 2013 -- total	\$ 15,735.60	
	Amount due		\$ 2,622.60
TOTAL AMOUNT DUE:			\$ 2,622.60

Remit To: Berkshire Regional Planning Commission
1 Fenn St., Suite 201
Pittsfield, MA 01201

Contact: Lauren Gaherty

Terms: Net 30

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* * * * * INVOICE * * * * *			
TO: Town of Great Barrington Town Hall 334 Main Street Great Barrington, MA 01230		DATE: 12/23/13	
ATTN: Jennifer Tabakin			
	DESCRIPTION		AMOUNT
	Pawa Law Group, PC Legal Services through November 2013 -- total	\$ 15,735.60	
	Amount due		\$ 2,622.60
TOTAL AMOUNT DUE:			\$ 2,622.60

Remit To: Berkshire Regional Planning Commission
1 Fenn St., Suite 201
Pittsfield, MA 01201

Contact: Lauren Gaherty

Terms: Net 30

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* * * * * INVOICE * * * * *

TO: Town of Sheffield
Town Hall
P.O. Box 325
Sheffield, A 01257

DATE: 12/23/13

ATTN: Rhonda LaBombard

DESCRIPTION		AMOUNT	
	Pawa Law Group, PC Legal Services through November 2013 -- total	\$ 15,735.60	
	Amount due		\$ 2,622.60
TOTAL AMOUNT DUE:			\$ 2,622.60

Remit To: Berkshire Regional Planning Commission
1 Fenn St., Suite 201
Pittsfield, MA 01201

Contact: Lauren Gaherty

Terms: Net 30

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* * * * * INVOICE * * * * *			
TO: Rest of River Municipal Group		DATE: 1/9/14	
	DESCRIPTION		AMOUNT
	BRPC Services Oct. - Dec. 2013		
	BRPC Staff -- 26.5 hrs		\$ 2,482.54
	Travel expenses		\$ 78.54
	Total		\$ 2,561.08
TOTAL AMOUNT DUE:			\$ 2,561.08

Remit To: Berkshire Regional Planning Commission
1 Fenn St., Suite 201
Pittsfield, MA 01201

Contact: Lauren Gaherty

Terms: Net 30

Pawa Law Group, P.C.

1280 Centre Street
Suite 230
Newton Centre, MA 02459
(617) 641-9550

Housatonic River

December 1-31, 2013

Housatonic River

Invoice# 11063

Professional Services

		<u>Hrs/Rate</u>	<u>Amount</u>
12/9/2013 BK	Compose email to Matt Pawa with recommendations concerning potential retention of RKG Associates as socioeconomic expert	0.50 250.00/hr	125.00
12/11/2013 MFP	Review transportation impacts draft	0.50 400.00/hr	200.00
BK	Review draft Housatonic clean-up transportation impacts paper from Berkshire Regional Planning Commission	0.50 250.00/hr	125.00
12/13/2013 MFP	Review proposal by economist and email clients regarding same	0.25 400.00/hr	100.00
12/19/2013 BK	Conference call with Nat Karns, Lauren Gaherty and Matt Pawa concerning potential retention of socioeconomic impacts expert, negotiation strategy and update on status of Rest of River proposed remedy	0.75 250.00/hr	187.50
MFP	Call with N. Karns regarding status update	0.75 400.00/hr	300.00
12/20/2013 BK	Factual research concerning press coverage of letter from six communities to Deval Patrick and EPA Region 1 Administrator requesting involvement in negotiations concerning proposed final Rest of River remedy and email Matt Pawa concerning same	0.50 250.00/hr	125.00
For professional services rendered		3.75	\$1,162.50
For professional services rendered		3.75	\$1,162.50

Pawa Law Group, P.C.

1280 Centre Street
Suite 230
Newton Centre, MA 02459
(617) 641-9550

Housatonic River

November 1-30, 2013

Housatonic River

Invoice# 11059

Professional Services

		<u>Hrs/Rate</u>	<u>Amount</u>
11/6/2013 MFP	Call with N. Karns regarding open meetings law, documents needed for PLG review and meeting dates for initial GE meeting	0.50 400.00/hr	200.00
MFP	Call with N. Karns and J. Sclarsic regarding Open Meetings Law	0.25 400.00/hr	100.00
11/8/2013 BK	Edit memorandum concerning client's right to appeal EPA's proposed remedy	0.75 250.00/hr	187.50
BK	Draft memorandum concerning strategy considerations and issues for further factual and legal research	2.25 250.00/hr	562.50
BK	Review Skeo Solutions report on socioeconomic impacts	0.50 250.00/hr	125.00
11/11/2013 WK	Telephone call with N. Karns	0.75 300.00/hr	225.00
WK	Pre-call/conference with M. Pawa & B. Krass	0.25 300.00/hr	75.00
BK	Draft memorandum concerning Skeo Solutions report on socioeconomic impacts	3.00 250.00/hr	750.00
BK	Phone conversation with Nat Karns, Matt Pawa and Wes Kelman to discuss client goals and strategy	0.75 250.00/hr	187.50
BK	Legal research regarding whether cost factor in selection of remedy refers to costs to General Electric or also socioeconomic costs to communities	1.00 250.00/hr	250.00

		<u>Hrs/Rate</u>	<u>Amount</u>
11/11/2013	MFP Review Krass memos regarding RCRA appeal and Skeo report; prep for call with N. Karns	0.75 400.00/hr	300.00
	MFP Call with N. Karns, W. Kelman and B. Krass regarding bases for negotiating with GE and overall goals	0.75 400.00/hr	300.00
	BK Meet with Matt Pawa and Wes Kelman (via phone) to prepare for call with Nat Karns	0.25 250.00/hr	62.50
11/12/2013	BK Legal research regarding whether cost factor in selection of remedy refers to costs to General Electric or also socioeconomic costs to communities and standard of review for appeal to EAB and draft memorandum regarding same	3.25 250.00/hr	812.50
	BK Legal research regarding standard of review for appeal to First Circuit and draft memorandum regarding same	1.50 250.00/hr	375.00
11/13/2013	BK Factual research regarding PCB contamination causing species decline	2.25 250.00/hr	562.50
	BK Legal research regarding standard of review for appeal to First Circuit and draft memorandum regarding same	0.75 250.00/hr	187.50
11/14/2013	BK Factual research regarding General Electric's preferred alternative regarding sediment removal and disposal	2.00 250.00/hr	500.00
	BK Draft list of questions for telephone call with Ken Kimmel	0.25 250.00/hr	62.50
	MFP Prep for call with Kimmell	0.50 400.00/hr	200.00
	MFP Call with Kimmell regarding status of remedy and parties' positions	0.50 400.00/hr	200.00
11/15/2013	BK Factual research on EPA Housatonic website for EPA monthly status report providing details of potential negotiated remedy	0.50 250.00/hr	125.00
	BK Draft memorandum regarding quantification of socioeconomic impacts	2.25 250.00/hr	562.50
	BK Review EPA monthly status report providing details of potential negotiated remedy	1.25 250.00/hr	312.50
	MFP Discussions with Krass and Kelman regarding whether communities should seek to join existing negotiations	0.50 400.00/hr	200.00
11/16/2013	MFP Call with N. Karns regarding report on call with Kimmel and regarding meeting of Nov. 17	0.25 400.00/hr	100.00
11/17/2013	BK Legal research regarding Open Meeting Law requirements and procedure for entering into executive session	1.00 250.00/hr	250.00
	MFP Review Open Meetings Law decision in Town of Hardwick matter and forward same to B. Krass	0.25 400.00/hr	100.00

		<u>Hrs/Rate</u>	<u>Amount</u>
11/18/2013 BK	Prepare for meeting with BRPC Rest of River Municipal Committee	0.25 250.00/hr	62.50
BK	Travel from Newton Centre, MA to Stockbridge, MA for meeting with BRPC Rest of River Municipal Committee, discussing strategy for negotiations with GE en route	2.00 250.00/hr	NO CHARGE
BK	Meet with BRPC Rest of River Municipal Committee to advise it on negotiations with GE for compensation for socioeconomic impacts of Rest of River remedy	1.75 250.00/hr	437.50
BK	Return travel from Stockbridge, MA to Newton Centre, MA from meeting with BRPC Rest of River Municipal Committee	2.00 250.00/hr	NO CHARGE
BK	Edit letter from six communities to Gov. Patrick and EPA Regional Administrator requesting seat at the table in negotiations between EPA, MA, CT and GE over final Rest of River remedy	1.00 250.00/hr	250.00
MFP	Travel to Stockbridge for client meeting; discussion with B. Krass regarding whether communities should seek to join existing negotiations	2.00 400.00/hr	800.00
MFP	Meeting with clients regarding report on call with K. Kimmell and strategy going forward	1.50 400.00/hr	600.00
MFP	Return travel from Stockbridge	2.00 400.00/hr	800.00
MFP	Draft letter from communities to Gov. Patrick and EPA administrator regarding inclusion in negotiations	1.50 400.00/hr	600.00
WK	Revise & edit letter regarding negotiations	1.00 300.00/hr	300.00
BK	Edit letter from six communities to Gov. Patrick and EPA Regional Administrator requesting seat at the table in negotiations between EPA, MA, CT and GE over final Rest of River remedy	1.00 250.00/hr	250.00
11/19/2013 MFP	Review Krass and Kelman edits of draft letter to Gov. & EPA and email clients regarding same	0.25 400.00/hr	100.00
WK	Confer with BK regarding strategy	0.75 300.00/hr	225.00
BK	Edit letter from six communities to Deval Patrick and EPA Regional Administrator requesting seat at the table in negotiations between EPA, MA, CT and GE over final Rest of River remedy	1.75 250.00/hr	437.50
BK	Draft memorandum regarding data gaps in Skeo Solutions report regarding socioeconomic impacts	0.75 250.00/hr	187.50
BK	Factual research regarding potential socioeconomic impact cost expert	1.75 250.00/hr	437.50

		<u>Hrs/Rate</u>	<u>Amount</u>
11/20/2013 BK	Edit letter from six communities to Deval Patrick and EPA Regional Administrator requesting seat at the table in negotiations between EPA, MA, CT and GE over final Rest of River remedy	0.50 250.00/hr	125.00
MFP	Edit letter to Gov. Patrick and EPA	0.75 400.00/hr	300.00
MFP	Discussions with co-counsel regarding letter and strategy	0.25 400.00/hr	100.00
11/21/2013 BK	Factual research concerning potential expert to address socioeconomic impacts and costs from Rest of river Remedy	0.25 250.00/hr	62.50
BK	Meet with Matt Pawa to discuss potential experts to address socioeconomic impacts and costs from Rest of River Remedy	0.25 250.00/hr	62.50
BK	Legal research concerning whether a municipality may bring a parens patriae action for diminution in private property values	0.50 250.00/hr	125.00
11/22/2013 MFP	Call with N. Karns and final edit to letter	0.25 400.00/hr	100.00
WK	Review latest draft of letter regarding inclusion in negotiations; email to MP regarding proper addressee and EPA procedure, telephone call with N. Karns regarding same	0.75 300.00/hr	225.00
11/26/2013 BK	Legal research regarding authority to request damages for diminution in private property values	0.25 250.00/hr	62.50
BK	Telephone call with Craig Seymour of RKG Associates concerning potential retention as socioeconomic impact cost expert	0.25 250.00/hr	62.50
BK	Compose follow-up email to Craig Seymour of RKG Associates concerning potential retention as socioeconomic impact cost expert	0.25 250.00/hr	62.50
11/27/2013 BK	Review exemplar socioeconomic impact report by potential expert RKG Associates	0.25 250.00/hr	62.50
BK	Legal research concerning legal authority to use class action to recover for diminution in private property values	1.50 250.00/hr	375.00
12/2/2013 BK	Legal research concerning legal authority to use class action to recover for diminution in private property values and draft memorandum regarding same	1.25 250.00/hr	312.50
12/5/2013 BK	Telephone call with Craig Seymour of RKG Associates regarding scope of work and proposal for potential expert work on socioeconomic impacts of Rest of River remedy	0.25 250.00/hr	62.50
BK	Draft notes of telephone call with Craig Seymour of RKG Associates regarding scope of work and proposal for potential expert work on Socioeconomic impacts of Rest of River remedy	0.25 250.00/hr	62.50

		<u>Hrs/Rate</u>	<u>Amount</u>
12/5/2013 BK	Review scope of work and proposal from RKG Associates for potential expert work on socioeconomic impacts of Rest of River remedy	0.25 250.00/hr	62.50
For professional services rendered		58.00	\$15,587.50
Additional Charges :			
11/18/2013 BK	Round trip mileage from Newton Centre, MA to Stockbridge to Boston re: meeting with clients		137.50
BK	Round trip tolls from Newton Centre, MA to Stockbridge, MA re: meeting with clients		10.60
Total costs			\$148.10
For professional services rendered		58.00	\$15,735.60
Total amount of this bill			\$15,735.60