

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

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

AGENDA

Rest of River Municipal Committee
August 27, 2014 -- 3:00 p.m.
Stockbridge Town Offices

1. Introductions
2. Review of minutes of August 13, 2014
3. EPA Remedy Plan – next steps
 - EPA public review process update: public hearing Sept. 23, comments due Oct. 1
 - Pittsfield informational meetings Aug. 27 & Sept. 4
 - Summary of Hudson River trip of August 20th
 - Process for submitting comments to EPA – jointly and individually
4. Executive Session – legal strategy moving forward
5. Other Business
 - Budget Update
 - Next meeting date
6. Adjournment

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

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**Meeting Minutes
Rest of River Municipal Committee
August 27, 2014 @ Stockbridge Town Offices**

1. **Introductions.** The meeting opened at 3:03 p.m. Attending the session were the following Committee members:

Warren Archey, Lenox Select Board
Pat Carlino, Lee Select Board
Doug Clark, Pittsfield Community Development Dir.
Lauren Gaherty, BRPC
Nat Karns, BRPC
Chris Ketchen, Lenox Town Manager
Jim McGrath, Pittsfield Park, Open Space, and Natural Resources Program Manager
Bob Nason, Lee Town Manager
Jennifer Tabakin, Great Barrington Town Manager
Rene Wood, Sheffield Select Board

Also attending:

Clarence Fanto, Berkshire Eagle

2. **Review of minutes of August 13, 2014.** Motion to accept meeting minutes as presented was made by R. Wood and seconded by C. Ketchen. Motion passed unanimously 5-0.
3. **EPA Remedy Plan and next steps.** N. Karns lead a group discussion of the next steps which included: the upcoming EPA hearing on 9/23 in Lenox; Pittsfield informational meetings on 8/28 and 9/4 and the process they plan to employ of a brief presentation by city staff with the majority of the meeting reserved for public comment; Great Barrington will hold a similar public meeting with date to be set and Lenox will do the same on 9/10 at the train station. J. Murphy of EPA will likely be at all meetings to answer those questions he can. Pittsfield representatives stressed Pittsfield will state they have no new information from the EPA and are not responsible for the Remedy's content; cite EPA's website for Remedy documentation; noted copies of the two key documents are available from EPA for handouts; and that the public needs to make its own comments, and not assume comments made at either meeting will make it into Pittsfield's official comments. Each meeting being held will help the specific municipality be more aware of public sentiment as well as help

inform official comments. It was suggested CTSB be contacted for those municipalities in its territory.

J. McGrath and D. Clark reviewed their concerns regarding how to engage and possibly involve other municipal boards which would likely be involved during the cleanup and play a role in the Quality of Life Plan required by the Remedy. In addition to local Boards of Health and Conservation Commissions, Berkshire County Public Health Alliance (BCPHA) and Berkshire County Boards of Health Association (BCBOHA) were discussed as well as Tri-Town and Pittsfield's Board of Health's experience in the first stretch of river cleanup and with the Allendale School. Air quality, public health nuisances, odor, noise monitoring and fugitive dust were among Board of Health / public health concerns cited, with reference to how the Hudson River cleanup's Quality of Life Committee composition and experiences in getting ahead of these issues.

N. Karns will review the possibility of comments being submitted by BCPHA on behalf of its member communities, with an emphasis on the Quality of Life Plan. Time was cited as a factor for engaging local boards of health. A template of these concerns was requested.

The Committee decided that comments will be added to address the Quality of Life Plan.

J. Tabakin, discussing her experiences in NYC, advocated for an expert who would be able to translate engineering reports into everyday language that people can understand. She stressed issues can take on a scarier tone when not translated into what they mean regarding health issues for people in the cleanup areas. A lack of such expertise was discussed and the Committee was favorable to a third party being requested in comments to provide this function. Gina Armstrong of Pittsfield's BOH was cited.

Operational plans and municipal capacity – both in terms of equipment and capacity – were discussed as well as potential requests for fire department assistance. Notification of hazardous materials was reviewed.

J. Tabakin raised the issue of cleanup impacts on parks and recreation, with J. McGrath discussing Pittsfield's experience regarding Fred Garner Park, which was closed for several years while being used as an access point for Phase 1 of the cleanup and the benefits the city received when the area was turned back to them. He stressed seizing opportunities from access points and various construction sites with the scope of work needing to meet municipal open space plans and recommendations.

The August 20th trip to the Hudson River, a de-watering site and Ft. Edwards were reviewed in very general terms due to the confidential nature of this material. The cleanup scope the group had reviewed was put in scale to the current draft Remedy, the later being significantly less than half the former's size, as well as noting the Hudson River cleanup is only working on the river channel not the flood plain, which for the Housatonic ROR Remedy, doing both in tandem is proposed. The public relations liaison firm GE hired to interface directly with the public, through meetings, 24/7 phone access, etc. was favorably reviewed and it was felt this should be asked for in the submitted comments.

It was suggested each committee member review the trip write up and provide comments to Lauren. B. Nason asked about any pushback Ft. Edwards may have received from GE but this was

not known. Discussion focused on the Hudson River cleanup, such as hours and days a week of work. It was undecided if the public should decide this or the municipality specifically make a request for certain work periods. Concern was raised over the hours/days of operation impacting tourism and the enjoyment of summer. L. Gaherty suggested a comment requesting the EPA use MA DEP noise standards. Seasonal considerations of work were reviewed, with spring being problematic due to frost heaves and mushiness. Ft. Edwards' goal of reusing the de-watering facility was reviewed along with the grants the community has gone after, including brownfield grants. Infrastructure required as part of the Remedy may provide post-cleanup municipal benefits, with several examples cited, including Pittsfield's experiences. Such opportunities were not part of a formal agreement but come about as the Remedy progressed and/or due to federal delegation's influence.

The issue of GE's avoiding capital improvement taxes was reviewed with subsequent Ft. Edwards legal action. The EPA has taken the position this is not in their purview to resolve or intervene.

The Quality of Life Plan was further discussed with the issue of navigation being added, which for the ROR municipalities focuses on the recreational use of the river. Issues of homeowners' loss of property usage, should floodplain remediation involve that property, were raised.

Considerable discussion centered on the need for a process to control invasive species and prevent them from being disrupted in a manner which allowed them to travel downstream during the clean up process, contaminating downstream areas. Invasive species, whether zebra mussels or water chestnuts, must be monitored, eradicated and possible downstream movement controlled at each work site. Regarding zebra mussels, it was noted they must be monitored from Laurel Lake and Lee backwaters and whether a drawn down at Laurel Lake could be commented on as an appropriate control mechanism. Contamination due to improperly cleaned equipment was also discussed.

There was consensus the municipalities should ask for a pre-cleanup invasive species survey and subsequent development of a management plan for control and prevention of any further contamination, including downstream migration, of all found invasive species during cleanup (and post cleanup activities/monitoring.)

N. Karns suggested there should also be inclusion of a comment regarding the cleanup's impact on mandated water draw downs and possible resulting waste water permit violations, which may result in citations. How violations of this nature should be handled at the state or federal level and that GE should be required to pay any levied fines in these circumstances were also discussed.

N. Karns went over the process for the ROR Municipal Committee submitting its comments with the focus being on comments which have common agreement. Where there is disagreement, the Committee will refrain from commenting and let the individual municipalities make their own comments. Several delegates commented on the amount of PCBs to be removed in each of their municipalities and their concerns. In particular the Woods Pond cleanup was discussed in light of the timing of cleanup activities upstream, as proposed under the draft Remedy timeline found on pg. 12. The current percentage of PCBs flowing over the dam at Woods Pond was reviewed and the group felt, post dredging and upstream cleanup, Woods Pond should be retested for PCB levels, with any PCBs which have migrated into and settled post dredging being removed prior to capping operations.

With September Board of Selectmen and Pittsfield City Council meetings, the week of September 15 -22 was cited as the time to get signatures for the joint ROR Municipal Committee letter. All agreed to seek agreement on getting a signature page signed during this period with the understanding that the final letter will likely not be finalized, as last minute changes will probably be made until right before submission. The areas of comment are expected to be finalized prior to the BRPC full commission meeting on September 11.

J. Tabakin raised the issue of asking for an extension to October 27th, which Lenox has already done and Lee was in the process of doing so. On a motion from R. Wood, with a second by C. Ketchen, which passed unanimously, all agreed for a ROR Municipal Committee letter to be sent by BRPC, with a cc to members of our federal delegation, with each municipality to pursue sending their own letter. That said, the committee remains totally focused on the October 1 deadline for comments.

4. **Motion to enter into Executive Session.** The following statement was read by N. Karns: "Request a motion to go into Executive Session to discuss the Pawa Law firm's advice regarding the appropriate strategy to best protect the Rest of River Municipalities' legal rights regarding the Draft Permit and such discussion, if held in open meeting, may have a detrimental effect on the legal position of the Rest of River Municipalities".

The motion was moved by R. Wood, seconded by Pat Carlino. The voice vote was delayed to allow the budget update discussion and the next meeting date to be reviewed.

5. **Budget update.** Reviewing the shortage of DLTA funds and the workload associated with the ROR Municipal Committee, N. Karns presented a budget request of \$4,715 to provide for BRPC support work through 12/31/14. As Sheffield's delegate is providing in-kind services through preparation of the meeting minutes, it was motioned, and amended, by Pat Carlino, and seconded, and amended, by J. Tabakin, that the BRPC budget request of \$4,714 be split evenly by the 5 communities of Pittsfield, Lee, Lenox, Stockbridge and Great Barrington. The motion passed unanimously.

L. Gaherty was to check the MOU, as Stockbridge was not present to vote. K. Narns reviewed that nothing additional had been requested by Pawa Law firm at this time.

6. **Executive Session.** The motion made earlier was reinstated by R. Wood and Pat Carlino. Voice vote: Warren Archey, Lenox: AYE; Doug Clark, Pittsfield: AYE; Pat Carlino, Lee: AYE; Jennifer Tabakin, Great Barrington: AYE; Rene Wood, Sheffield: AYE. The Committee entered Executive Session at 4:30pm, with no intention to return to Open Session.
7. **Adjournment.** The meeting was adjourned after the adjournment of the Executive Session at 5:07 pm on a motion by R. Wood, seconded by J. Tabakin and approved unanimously.

Respectfully submitted,
Rene C. Wood, Sheffield Delegate to ROR Committee

Meeting materials:

Meeting minutes for August 13, 2014 meeting; Agenda for August 27, 2014; and BRPC budget memo dated August 26, 2014.

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MEMO

To: Housatonic Rest of River Municipal Committee

From: Berkshire Regional Planning Commission (BRPC)

Subject: Projected BRPC Budget

Date: August 26, 2014

Below is the estimated budget for BRPC to provide technical assistance to the Rest of River Municipal Committee for the period August 1 – October 1, 2014. These services will include drafting, consolidating, and overseeing the submission of comments from the Committee to the U.S. EPA on the *Draft Modification to the Reissued RCRA Permit and the Statement of Basis for EPA's Proposed Remedial Action for the Housatonic River "Rest of River."*

Estimated costs for services total \$4,716. If total costs are divided evenly between all six Rest of River Municipal Committee members, the cost for each municipality will be \$786.

BRPC Cost Item	Hours Est.	Cost
Organize & attend Hudson River trip; draft mtg notes*	5	487
Edits and Submission of Municipal Committee Comments	14	1,364
Attend 4 Committee meetings	16	1,559
Committee meeting prep & follow up	8	779
Attend Sept. 23rd EPA Public Hearing*	2	195
Mileage (90 mi. to NY; 104 to Stockbridge X 4)*		109
Subtotal		4,493
5% Exec. Dir. Oversight		223
Total	45	4,716

*Costs for these tasks are shared between the Committee and the BRPC.