

**BERKSHIRE REGIONAL PLANNING COMMISSION**  
**1 FENN STREET, SUITE 201, PITTSFIELD, MASSACHUSETTS 01201**  
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SHEILA IRVIN, Chair  
KYLE HANLON, Vice-Chair  
MARIE RAFTERY, Clerk  
CHARLES P. OGDEN, Treasurer

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

## **AGENDA**

**Rest of River Municipal Committee**  
**September 24, 2014 -- 9:00 a.m.**  
**Stockbridge Town Offices**

1. Introductions
2. Review of minutes of September 12, 2014
3. Discussion about EPA Public Hearing of September 23, 2014
  - Do comments heard at the hearing effect Committee comments?
4. Executive Session – consider submission from the Pawa Law Group
5. Other Business
  - Next meeting date October 8, 2014
  - Other
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  
September 12, 2014 @ Stockbridge Town Offices**

- 1. Introductions.** The meeting opened at 9:03 a.m. Attending the session were the following Committee members:  
Warren Archey, Lenox Select Board  
Pat Carlino, Lee Select Board  
Doug Clark, Pittsfield Community Development Director  
Lauren Gaherty, BRPC  
Nat Karns, BRPC  
Chris Ketchen, Lenox Town Manager (9:07 a.m.)  
Jorja Marsden, Stockbridge Town Administrator  
Jim McGrath, Pittsfield Park, Open Space, and Natural Resources Program Manager  
Bob Nason, Lee Town Manager  
Chris Reibold, Great Barrington Town Planner  
Steven Shatz, Stockbridge Select Board  
Rene Wood, Sheffield Select Board
- 2. Review of minutes of August 27, 2014.** Motion to accept meeting minutes as presented was made by P. Carlino, seconded by R. Wood and passed 5-0-1, with Stockbridge abstaining.
- 3. EPA Remedy Plan and next steps.** N. Karns lead a group discussion of the next steps, including the EPA's extension of the deadline for written comments to Monday October 27<sup>th</sup> and a revised timetable for getting signatures for the Committee's letter's signature page. L. Gaherty noted that Attorney Krauss had sent his edits on the Committee's letter and she would be sending them out shortly. An accompanying email would explain the Pawa Group's reasons for the edits and she noted that this had been reviewed by both Attorney Pawa and a colleague who was formerly with the EPA. Noting the confidentiality of the email, N. Karns said it dealt with the reality of what the EPA could grant the municipalities, re-focusing on a realistic strategy and how best to maintain a friend, rather than gain foe, relationship with the EPA. All of this will be discussed at the next session on 9/24/14.  
  
D. Clark gave an update of Pittsfield's current position and highlighted the results of their two public hearings, with tension noted between neighbors concerned about back yard/property value impacts and those who feel the current Remedy calls for too little cleanup and demand more. He reviewed

that about a quarter of the sediment removal will be in Pittsfield and there are significant neighborhood concerns. He shared language he proposed be incorporated into the Committee's letter which modified current language, seeking a more nuanced balance. He questioned whether the underpinning Risk Assessment methodology was solid and called for a better balance between short and long term goals in the Core Areas.

Discussion ensued as to whether such a position would either undermined the EPA's Remedy or the Committee's overall position. Members focused their attention on Table 1 of the Remedy Permit, *Cleanup Standards for PCBs for Floodplain Soil by Exposure Area – Current Use* (and by extension Tables 2 -5) for the 90 Exposure Areas (Figures 3 and 4) and questioned whether underlying assumptions of usage are valid and, by extrapolation, the validity of the conclusions of risk assessment. The use of the utility corridors and the frequency of canoeist usage were cited as examples of potential inaccurate information. The Committee wished to see the methodology used in determining the statements in Table 1 and determined it would be of use to volunteer to work with the EPA to revisit each parcel's general usage by activity and for each usage, time in area (exposure per day) and compare them to the assumed EPA risk assessments. It was felt such joint activity would help determine whether Tables 1 – 5 should be revised to more accurately state the amount of cleanup needed in each of these parcels. N. Karns noted the EPA is actively seeking comments on how each parcel is used by the public, including frequency of usage.

This tied back to Pawa Group's comment that it is key to address the community impacts of the cleanup and as such need to secure a seat at the table when the discussion turns to implementation details. Discussion turned to asking for EPA/GE consultation with the ROR communities, including specifically where and how the communities could be of real, tangible assistance to EPA, as it was felt this would increase our value at the table. ARARS were focused on, using the Conservation Commissions as an example, and it was agreed that Pittsfield would share its Community Development's draft letter making this case.

The group next discussed the next draft of its Committee letter and how best to deal with comments made on pages 6-7 of the current draft. Pittsfield was OK with the comments with the exception of those made relative to the Core Areas and provided new language to address them. It was suggested the ROR Committee come up with nuanced language acceptable to Pittsfield, again with each community able to be more specific in their own municipal letter to the EPA.

Impacts of climate change were discussed and a report on this was cited (May 2014). L. Gaherty was going to locate it and possibly cite it in the group letter. The group discussed how to make sure monitoring and adaptive management address this when it happens, not years later. The short term result of less PCB removal means a longer term of PCBs being in the river, banks and floodplain and subject to reentry due to climate change and river meandering over the longer term. How to address this situation? Discussion focused on how best to call for more robust Remedy monitoring protocols -- more reactive and timely in implementation -- rather than as currently stated in the Remedy Permit; how to ensure available and long term funding from GE or its successors; performance triggers and performance standards to make monitoring simple and straightforward; how to get the details teased out for the Statement of Work on pages 37 – 40 of the Remedy Permit, with emphasis on page 40 Section v. Operation and Maintenance Plan.

Next discussed and agreed upon was the need for the municipalities to have one or more consultant interfaces – paid for by GE – with the new idea of having a consultant in perpetuity for ongoing

review of plans, monitoring, etc., which for the Committee, covered issuance of the Permit through Certificate of Compliance; it was noted a Certificate of Compliance has yet to be issued in Region 1.

B. Nason focused on Onyx discharge permits and his concerns related to all discharge permits, such as those for municipal as well as private businesses. It was suggested the EPA be asked to require GE to post a bond to deal with such issues.

N. Karns encouraged the municipalities to call out such details in their letters to the EPA and to encourage any impacted business or organization to also write a letter to the EPA specifying their concerns in detail, as only they know this level of information.

It was suggested the Town of Lee include a specific listing, and maps, of the backwaters, coves and any other areas which were surveyed by EPA but not specifically called out in the Remedy Permit. They need to be cited so they are not left out. Suggestions further cited the EPA letter on this matter, their report and associated maps for inclusion in such a letter.

J. McGrath encouraged municipalities to specifically call out any in-place Municipal recreational plans such as their Open Space and Recreation plan, citations in Master Plans, etc. and to use the time between comment submission and EPA's release of Final Remedy to get plans updated or in place. Such plans will need to be considered by the EPA when implementing the Remedy and may provide opportunities for municipal benefits, such as support for the bike path in Lee or the access trail to the river in Stockbridge.

A three tiered response to the EPA Remedy was discussed: BRPC comments, the 6 ROR Municipal Committee's comments and comments from individual municipalities and associated Boards, such as the Board of Health. Comments at each of tier may differ.

Next steps were reviewed: L. Gaherty to send Pawa Group's comments and suggested draft letter revision; she was going to update the group letter based on member comments; municipalities will share local letters as developed; focus on long term monitoring, involvement of local boards – and letters from same if possible – and recreation updates and opportunities. This brought the focus to the Quality of Life Plan and the need again for various Boards of Health to submit appropriate letters. Pittsfield will likely take a lead on this with the sharing of a possible letter from their Health department as Gina Anderson has been through this. A quick review of the community meetings revealed that all have yielded similar concerns: transportation impacts, property values and use disruptions during cleanup, impact on Scenic Berkshire Railroad and either too much or too little cleanup being called for in the Permit.

4. **Upcoming Events and Meeting.** The schedule was reviewed: September 23<sup>rd</sup> at 6:30pm, Lenox High School - EPA Public Hearing; next ROR Committee - September 24<sup>th</sup> at 9am, Stockbridge and if needed a final meeting on October 8, 2014 at 3pm at Stockbridge; final comments to the EPA due Monday October 27<sup>th</sup>. Signature dates were reviewed.
5. **Adjournment.** The meeting was adjourned after at 10:35 p.m. on a motion by D. Clark, seconded by C. Ketchen and approved unanimously.

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

**Meeting materials:**

Meeting minutes for August 27, 2014 meeting; Agenda for September 12, 2014; Pittsfield document with comments on page 7, 9/9/14 Draft; Housatonic ROR Municipal Committee draft letter.