

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

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

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

MEETING NOTICE

A meeting of the Berkshire Regional Planning Commission
will be held on:

Thursday, July 27, 2017 at **5:30 p.m.** at the BRPC Office
1 Fenn Street, Ste. 201
Pittsfield, MA 01201

Please Note: Construction on the First Street Parking Lot has just been completed and parking is now available there!

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

AGENDA

I. Opening (5:30-5:35)

- A. Call to Order
- B. Roll Call
- C. Approval of Minutes May 18, 2017 Meeting

II. Comments from the Public (5:35-5:40)

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. Delegates' Issues (5:40-5:45)

Delegates and Alternates may bring up any issue not on the agenda.

IV. Election of BRPC Officers for FY 2018 (5:45-5:55)

The Nominating Committee proposed the following slate of officers for FY 2015:

*Chair: Kyle Hanlon, North Adams Delegate
Vice Chair: Sheila Irvin, Pittsfield Delegate
Clerk: Marie Raftery, Stockbridge Delegate
Treasurer: Charles Ogden, Egremont Alternate*

Nominations will be taken from the floor.

- V. **Endorsement of Committee Chair and At-Large Executive Committee Member Appointments for FY 2018** (5:55-6:00)
- VII. **Approval of Letters on Land Use Reform Legislation** (6:00-6:30)
 - A. H.2420 – An Act Building for the Future of the Commonwealth (Representatives Kulik and Peake)
 - B. S.81 – An Act Promoting Housing and Sustainable Development (Senator Chandler)
 - C. S.94 – An Act Improving Housing Opportunities and the Massachusetts Economy (sponsor: Senator Rodrigues)
- VIII. **Approval to Summit Grant Application to the Department of Energy Resources for Affordable Access Regional Coordination (AARC) Program** (6:30-6:35)
- IX. **Approval of Executive Committee Actions between May 18 and July 27, 2017** (6:35-6:40)
- X. **Executive Director’s Report** (6:40-6:45)
 - A. Staff Changes at BRPC
 - B. Ridership Survey for Berkshire Regional Transit Authority
 - C. Status of District Local Technical Assistance, Community Compact, and Efficiency and Regionalization Programs in FY 2018 State Budget
 - D. New Planning Board Member Training – 6:30 p.m., Thursday, July 27th, 3rd Floor Conference Room at BRPC
 - E. Recreational Marijuana Workshop for Municipal Officials – (tentatively Thursday, August 31st, Lenox Town Hall)
 - F. Nominations for 2017 Charles Kusik Award
 - G. Special Berkshire Transportation Studies in FY 2018 State Budget
 - H. EPA Brownfields Assessment Program Awards in the Berkshires
 - I. Municipal Hazard Mitigation Program Awards in the Berkshires
 - J. Municipal Vulnerability Preparedness (MVP) Program Awards in Berkshires
 - K. 2017 Community Development Block Grant Awards in Berkshires
 - L. Other
- XI. **Adjournment** (6:45)

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 pursuant to M.G.L. Chapter 39, Section 23B

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DRAFT MINUTES OF THE BERKSHIRE REGIONAL PLANNING COMMISSION MEETING

**Thursday May 18, 2017
At the Lenox Town Hall**

I. Call to Order

A. The meeting is called to order at: 7:00 PM

Chair Kyle Hanlon reminded all per the open meeting law, BRPC records all meetings. Others may record the meeting after informing the chair. Any documents presented must be left with the chair at the meeting.

B. Introductions/Roll Call

The following Commission members are present:

Peter Traub – Cheshire Delegate
Buck Donovan – Lee Delegate
Pam Kueber – Lenox Delegate
Jim Lovejoy – Mt. Washington Alternate
James Mullin – New Marlborough Delegate
Kyle Hanlon – North Adams Delegate
Sheila Irvin – Pittsfield Delegate
CJ Hoss – Pittsfield Alternate
Rene Wood – Sheffield Alternate
Carole Owens – Stockbridge Alternate
Sarah Hudson – Tyringham Alternate
Marilyn Wiley – Washington Delegate
Dana Bixby – West Stockbridge Delegate
Susan Puddester – Williamstown Delegate
Roger Bolton – Williamstown Alternate
John Garcia – Windsor Delegate

Staff Present:

Nathaniel Karns – Executive Director
Thomas Matuszko – Assistant Director
Clete Kus – Transportation Program Manager
Bill Compton – Senior Planner
Pat Mullins - Community Development Program Manager

Others Present:

Senator Adam Hinds
Andy McKeever – iberkshires

C. Approval of Minutes

1. March 16, 2017 Regular Meeting

Sarah Hudson moved to approve; seconded by Rene Wood. Unanimously approved with 6 abstentions.

2. January 19, 2017 Executive Session – and authorize release

Motion not needed (approved at prior meeting).

3. March 16, 2017 Executive Session – and authorize release

Rene Wood moved to approve; seconded by Sarah Hudson. Unanimously approved with 2 abstentions.

II. Comments from the Public – None

III. Delegate & Alternate Issues – None

IV. Senator Adam Hinds

Senator Adam Hinds explained his priorities. Currently he is working on the Senate budget process. Hinds stated there needs to be more investment in the western part of the state because of the changes in the past twenty years, the decrease in population, the lack of internet, and the lack of public transportation. These changes impact our municipalities and school budgets and must be addressed. The state needs to double down on high speed internet and education funding. The lack of internet access does not allow people to work from home. This causes losses on housing sales. There is a full accounting of MBI on how money is spent and what is left. The proposed increase in energy cost is unacceptable. All these issues are being brought to the attention of the Governor. Western Massachusetts is economically distressed. Boston cannot compete with the Berkshires in terms of nature, quality of life and where you want to raise a family. In a couple of years, we should begin to see changes in Western Massachusetts based on the efforts.

The Senate version of the budget is very serious about investment in education. The foundation budget review and recommendation are based on a study done that shows schools are spending more on retirees benefits and special education than we think. The State needs to be compensating those expenses through the foundation budget. The Senate adopted the corrective measures needed for special education expenditures. The focus in on the "CommonWEALTH".

The biggest problem with the budget is the revenue is lower than the expenditures. We cannot balance the budget. We have more jobs but not more income. The increase in jobs are in the lower paying sectors. Tax code changes have affected the revenue dollars. The state should tax online sales and Airbnb. We need to convince the Governor that Arts, Tourism, and Cultural income does increase the impact on our economy. For every dollar spent on tourism there is seven dollars generated in hotel and food revenue.

Jim Lovejoy pointed out there is no strong vision for internet access. We should not set our sights too low, for economic development we need the best technology and set our sights higher. North Adams and Pittsfield will have substandard internet infrastructure. Time Warner / Spectrum does not meet the community's needs. There are five communities already working together on this issue.

Rene Wood brought up the issue that Berkshire County has no Boston TV channel. Berkshire County is treated like we are from New York. Spectrum should not get away with that and give Berkshire County residents a Springfield channel as an equivalent channel. Spectrum is also going to encrypt their signals because of cable theft. In the future, there will be a \$7.00 per TV charge for an encryption device after the first free year. There is no documented proof of this theft.

Rene also mentioned how fundamental it is to the communities with no staff to receive BRPC's assistance provided through the District Local Technical Assistance funding. Rene requested Senator Hinds to get the approval of these funds. CJ Hoss also pointed out if zoning reform is passed there will be a greater burden on the communities who will need DLTA assistance from BPRC. Senator Hinds agreed on the importance but DLTA is a negotiation piece in the budget.

Senator Hinds also will be looking at legislation to provide local government additional taxing authority to generate more transportation revenue.

All thanked Senator Adam Hinds for coming and his efforts for Berkshire County.

V. Proposed Transportation Improvement Program for FY 2018-2022

The updated Transportation Improvement Program for the Berkshires which establishes which projects will receive the limited federal transportation funds in the region will be before the Berkshire Metropolitan Planning Organization at its meeting on May 23rd.

Transportation Manager Clete Kus presented the staff recommendations for improvements to highways, intersections, sidewalks, pavement resurfacing, bicycle and pedestrian projects, and bridge improvements. Also presented was the Transit budget for new buses and maintenance of existing vehicles for fiscal years 2018 to 2022.

Clete explained to spend out all the money available for projects there are no scenarios for the commission to discuss and instruct the BRPC chair how to vote. Also, there are other projects that are not in the design process yet and could not be included in the recommended projects for FY 2018 to 2022.

Clete asked the Commission to recommend how the Chair should vote on the Transportation Improvement Program (TIP) at the MPO meeting on May 23th.

Jamie Mullen made a motion for the Chair to endorse staff recommendations in the updated Transportation Improvement Program as presented at the next MPO meeting; Rene Wood seconded. Approved with 1 abstention.

VI. Review of Draft 2017 Berkshire County Comprehensive Economic Development Strategy

Senior Planner Bill Compton presented key portions of the proposed CEDS to the Commission. For the past four years, we have only needed to provide annual updates; this is a new document reflecting considerable changes in what the U.S. Economic Development Administration is requesting and will keep the region eligible to apply for public works and other grants supporting economic development activities in the region, as well as be eligible for Economic Development District status.

Bill explained the CEDS document enables municipalities and organizations to access U.S. Department of Commerce's Economic Development Administration (EDA) grant funds. An approved CEDS is a prerequisite to receive funding from EDA.

The CEDS is a way for municipalities and organizations to share economic development projects and initiatives.

Bill pointed out Berkshire County's biggest loss is young adults, unemployment is down while at the same time the employment has shifted to lower paying jobs. Bill reviewed Berkshire County's strengths, weakness, opportunities, and threats.

Bill explained the region's ability to recover quickly, withstand or avoid a shock, i.e. a natural disaster or closure of a large employer.

There was a discussion on the strengths that Berkshire County is accessible to Boston and New York City via car however access via passenger train is not easy. Interstate Railroad for freight is a strength but passenger rail is a weakness.

After a discussion on strengths and weakness, the group requested the points be clarified in the final document. Nat also explained New England Homes Project will be added to the list of projects.

The Commission was requested to authorize the Executive Committee take final action on the CEDS at its June 1st meeting.

Rene Wood moved to authorize the Executive Committee take final action on the CEDS at its June 1st meeting; seconded by Susan Puddester. Unanimously approved.

VII. Approval of Letter on H. 1083 – An Act Extending the Approval Time for Approval Not Required Plans (sponsor: Rep. Cariddi)

The Berkshire Regional Planning Commission requested that the Committee expeditiously support the bill filed by Representative Cariddi which provides for a small extension of time for action by local planning boards to act on so-called Approval Not Required subdivision plans.

Nat explained the current time limit is only 21 days and the bill would allow up to 45 days, which is not an unreasonable time to allow for review since some boards meet only once a month.

James Mullen moved to approve the Letter on H. 1083 – An Act Extending the Approval Time for Approval Not Required Plans with a correction; seconded by Sheila Irvin. Unanimously approved.

VIII. Approval of Letter on S.1993 – An Act Protecting Municipal Authority Relative to Airports (sponsor: Senator Tarr, co-sponsors: Senator Hinds and Representative Pignatelli)

The Berkshire Regional Planning Commission requested that the Committee support the bill filed by Senator Bruce Tarr which protects municipal authority relative to airports. This bill serves to protect the home rule authority of municipalities to regulate the use of land within their boundaries for private, non-commercial airports.

Rene asked to change some of the verbiage. After a discussion, Kyle asked for a motion.

Jamie Mullen moved to approve the modified Letter on S.1993 – An Act Protecting Municipal Authority Relative to Airports with modification; seconded by Rene Wood. Unanimously approved.

IX. Adoption of FY 2018 Budget for the Berkshire Regional Planning Commission

Tom explained the proposed budget for FY 2018. The reason for the increase is for an additional planner to work on the Transportation and District Local Technical Assistance contracts.

For proposed revenues, Tom explained the revenue from EPA Brownfield, Community Development Block Grants and District Local Technical Assistance was included. Under expenditures, salaries increased due to pay scale changes, merit increases and the new planner position. Overall benefits increased slightly due to health and dental increases around 4%. Under operating expenses there is an increase to cover the costs of seeking/recruiting a replacement for Nat when he retires which he has announced will occur next year. BRPC plans to contribute \$45,000 towards Retirees Health Insurance. Also budgeted is \$15,000 for our reserve.

Kyle asked for a motion after there were no questions or discussion.

Sarah Hudson moved to approve the FY 2018 Budget for Berkshire Regional Planning Commission; seconded by Rene Wood. Unanimously approved.

X. Appointment to the Berkshire County Regional Housing Authority Board

Kyle asked the Commission to reappoint Lisa Sloan of Lee to the Berkshire County Regional Housing Authority Board.

James Mullen moved to reappoint Lisa Sloan of Lee to the Berkshire County Regional Housing Authority Board; seconded by Rene Wood. Unanimously approved with 1 abstention.

XI. Report of the BRPC Nominating Committee – Officers for FY 2018

CJ Hoss reported the Nominating Committees nominations for the following slate of officers:

Chair	Kyle Hanlon
Vice-Chair	Sheila Irvin
Clerk	Marie Raftery
Treasurer	Charles Ogden

All four officers have agreed to serve another year. At the next Commission meeting after July 1st other nominations can be taken.

XII. Approval of Executive Committee Actions between March 16 and May 18, 2017

Sarah Hudson moved to approve all Executive Committee actions between March 16 and May 18, 2017; seconded by Rene Wood. Unanimously approved.

Kyle explained at the last Commission meeting Bob Bott from Mt. Washington requested the topic of increases in Health Care costs to our municipalities be reviewed. At the last Regional Issues and Executive Committee meetings it was decided this topic is a statewide issue and too big of an issue for BRPC to take on. Jim Lovejoy thanked BRPC taking the request under consideration.

Kyle announced the flyer for input for BRPC's 5th Thursday Dinner and presentation on large scale solar. All questions, concerns or your interests should be sent to Tom Matuszko, tmatuszko@berkshireplanning.org.

XIII. Executive Director's Report

- A. MassDOT Capital Investment Plan 2018-2022 Berkshire Public Meeting – Tuesday, May 23rd, 6:30 p.m., MassDOT District 1, Lenox**
- B. Mass Association of Planning Directors Conference in Pittsfield – Thursday and Friday, June 15-16th, Crowne Plaza**
- C. 5th Thursday Dinner for Planning & Zoning Boards – June 29th, Large Scale Solar, Mazzeo's Ristorante, Pittsfield**
- D. District Local Technical Assistance – Status in State Budget for FY 2018**
Nat urged all to call or send emails to Senator Hinds and Senator Karen E. Spilka (D-Ashland), Chair of the Senate Committee on Ways and Means the importance of DLTA funding. Rene Wood suggested copying Senator Rosenberg.
- E. MassDOT Small Bridge Projects in Berkshires**
- F. Other – None**

XIV. Adjournment

Jamie Mullen made a motion to adjourn; seconded by Sheila Irvin. Unanimously approved. Adjourned at 9:05 pm.

Materials distributed or presented during this meeting:

Meeting Agenda
Draft Meeting Minutes March 16, 2017
Draft Executive Meeting Minutes January 19, 2017
Draft Executive Meeting Minutes March 16, 2017
Berkshire MPO TIP 2018 to 2022 Project List
Memo Draft 2017 CEDs
Letter RE: H.1083 Subdivision Law and docket No 391
Letter RE: S 1993 Airports and docket 1993
Memo Proposed FY2018 Budget
FY 2018 Projected Revenues
FY 2018 Projected Expenditures
Memo and Letter Appointment to Berk County Reg Housing Authority Board
Approval of Executive Committee Actions Memo
Letter to MEPA on Hoosac Valley Rail Service Ext SEIR
Drug and Alcohol Free Work Place Policy
Personnel Pay Plan
Executive Director's Report
MassDOT Capital Investment Plan Public Meeting Schedule
2017 MAPD Annual Conference Pittsfield June 15 to 16
CEDs presentation
2017 Berkshire County Comprehensive Economic Development Strategy

The Honorable Michael Moore
Senate Co-Chair
Joint Committee on Municipalities and Regional Government
State House, Room 109-B
Boston, MA 02133

The Honorable James O'Day
House Co-Chair
Joint Committee on Municipalities and Regional Government
State House, Room 540
Boston, MA 02133

RE: H.2420 – An Act Building for the Future of the Commonwealth

Dear Senator Moore and Representative O'Day:

The Berkshire Regional Planning Commission, which serves the thirty-two cities and towns in Berkshire County, wishes to indicate its overall support for the passage of H.2420., sponsored by Representatives Kulik and Peake. The Commonwealth's land use laws are some of the oldest and outdated land use laws in the U.S. They discourage smart growth and deprive cities and towns of modern zoning and planning tools to address twenty-first century challenges. The proposed bill will finally modernize the zoning, planning and subdivision laws of the Commonwealth. Comprehensive land use reform legislation has been introduced and discussed by the legislature for over a decade, without action. We hope that the Joint Committee on Municipalities and Regional Government will report the bill out favorably, with some modifications. Our comments on major sections of the bill are:

Accessory Dwelling Unit Requirement

We support the requirement that accessory dwelling units must be permitted within single family dwellings, with appropriate regulations, without requiring a special permit. We believe that allowing a community to require that at least one of the units in the dwelling be owner-occupied, set an overall limit on the percentage of such units, be exempted if there already are at least 5% multi-family units in the community, or if housing sale prices have declined in the community are important safeguards.

Multi-Family and Open Space Residential Development Requirement

While generally we support the requirement that multi-family residential use by right should be required in some portion of most communities, we believe some modifications to this section are warranted. The language should explicitly allow "by-right, subject to site plan review." This will allow communities to set reasonable site requirements while not allowing them to prohibit multi-family development. We believe that requiring every rural town to apply to DHCD for a waiver when they neither currently have nor will have water and sewer in a reasonable future nor any areas even remotely suitable for 40R status is an unwarranted burden on very small towns with no staff. It would be more productive to simply set an exclusion for towns with year-round populations of 250 people per square mile or less and with no existing or planned water and sewer.

While we support the concept that Open Space Residential Development must be allowed by right if a proposed subdivision has 5 or more lots for any zoning district with a minimum lot size of 40,000 square feet or greater (almost one acre), it is very questionable how this will be implemented in most Berkshire communities due to their lack of planning resources. We also feel that this makes it more critical to

modernize the Subdivision Control Law which creates a set of barriers to more flexible development practices.

Majority and Supermajority Voting on Zoning Matters

The issue of allowing each community to make its own decisions regarding whether zoning adoption and amendments, special permits, and variances are by super-majority or simple majority votes comes up in various sections of the bill. We support allowing the community to decide. We believe changing the current super-majority to simple majority by supermajority vote of the legislative body is appropriate. We believe that changing the existing supermajority vote on special permits to simple majority should require a legislative body vote rather than require a vote in order to retain the supermajority requirement. We think that the requirement that any zoning change subject to a landowner protest must be by supermajority, regardless of the standard requirement set by the community, such as simple majority voting, is fraught with pitfalls and should be dropped.

Provision for Different Voting Majority if Accessory Dwelling, Multi-Family, or OSRD Bylaw Proposals Fail

The bill indicates that if a legislative vote to approve any of the required Accessory Dwelling, Multi-Family or OSRD Bylaw proposals fails to gain the required super-majority, they may be subsequently approved by a simple majority. This will be very confusing to communities, especially those that use town meetings. For instance, who has the authority to require that the subsequent simple majority vote rule applies? It would be more straightforward to either remove this language in its entirety or, failing that, to simply state that the initial votes to adopt these provisions are by simple majority.

Vesting and Grandfathering Provisions

We support almost all the provisions which clarify and clean-up the language on when proposed projects are vested and the grandfathering provisions. We especially support the changes which clarify that only the actual project proposed through an ANR plan is protected, and that the simple filing of an ANR plan does not freeze all aspects of the existing zoning. We believe that clarity needs to be added regarding the status of applications which are submitted and processed after publication of notice of a potential zoning change but before a vote of the legislative body has occurred. We do not believe they should be protected from the possible zoning change since this could lead to filing of applications quickly to avoid new requirements, but what happens if they attempt to meet new requirements which then do not get adopted? Especially given the length of time that a zoning amendment takes to be approved from public notice to final legislative vote, this could be a considerable delay for the project proponent. We suggest that a reasonable approach may be to provide a reasonably limited amount of time for the zoning amendment to receive legislative consideration or otherwise the proposed project proceeds under the zoning in existence when the permit was applied for.

Form-Based Zoning

While we support the explicit permission to use form-based zoning, we believe that this tool is already available under Home Rule provisions.

Site Plan Review Authority

While we support the explicit provision for site plan review, this tool has received legal blessing from the Massachusetts' courts. We believe some of the language is problematic, such as conditions placed on a site plan are limited to impacts on properties within 300 feet. While 300 feet is an adequate distance for many issues dealt with in site plan review, lighting and noise, specifically, can create impacts much greater than 300 feet and can be very site specific due to topography, vegetation and other screening,

height and types of lights, and atmospheric conditions for noise. No fixed distance limitation can adequately accommodate these variations.

Development Impact Fees and Inclusionary Zoning

We support the authorization for Impact Fees and Inclusionary Zoning.

Land Use Dispute Avoidance Process

The bill prohibits a bylaw or ordinance from not allowing a developer of a 40B permit to request use of a land use dispute avoidance process. This may be an unnecessary carry-over from previous versions of this legislation since there is no land use dispute avoidance process in the current bill.

Art Use and Habitation by Artists

We oppose this requirement. It is unnecessary and contrary to local home rule decision-making. The related definition does not account for the many variations on what might be considered an “art use” and is actually more restrictive than that found in some of our communities’ existing bylaws and ordinances when they have dealt with this use explicitly.

Standards for Granting Variances

We support loosening the standards for permitting variances. We have a preference to the language used in S.81 (sponsored by Senator Chandler) over that used in H.2420.

Surety or Cash Bond Requirements for Appeals

We are concerned that this possible requirement for surety or cash bonds if a judicial appeal is filed will put Environmental Justice communities at a disadvantage. A \$15,000 cash bond may be well beyond the means of neighbors in a low-income community but will not be a deterrent at all in a wealthy neighborhood.

Smart Growth Zoning or Starter Home Zoning Districts

We support the provision that smart growth or starter home zoning districts can be adopted by simple majority vote.

Master Plans (Chapter 41, s.81D)

We believe the wholesale changes in the language for master plans will lead to fewer communities even trying to develop these important documents. The requirements laid out both for the mandatory and voluntary elements are intimidating and overly proscriptive. We believe that the first 3 sections add good guidance and intent statements. There should be a general statement that planning boards should consult with other appropriate local officials, boards and commissions in developing master plans, rather than scattered limited references (agricultural commissions and boards of health).

Natural Resources & Energy Element

While both of these are important for master plans to cover and the addition of consideration of energy in master plans is a useful addition to the enabling legislation, we believe they should be dealt with separately. Natural Resources, Open Space and Recreation should be one element with allowance that an Open Space and Recreation Plan should be considered as equivalent. Energy and Climate Change should be a totally separate element as it should encompass a wide variety of issues, well beyond land use and natural resources and should encompass mitigation, adaptation and vulnerability assessment.

Mandatory versus Voluntary Elements

We believe the transportation element should be mandatory. We do not believe that there should be a separate possible Open Space and Recreation element but this should be covered under the Natural Resources element discussed above.

Other Comments on Specific Master Plan Elements

The Cultural Resources Element should be “Cultural Resources & Historic Preservation Element.” While the two might be synonymous, they are not necessarily so but typically have a strong inter-relationship. The Infrastructure and Capital Facilities Element should be “Infrastructure and Community Facilities Element” and it is premature to require costs and revenues in a master plan element. These are typically dealt with in a community’s Capital Improvements Program which typically includes items such as major equipment or systems which are not facilities but are major capital expenses with extended service lives. The Water Facilities element is much more specific than the other elements and seems to be more on the order of regulations rather than setting legislative policy. The Public Health Element needs to be carefully redrafted to make it something that a planning board can relate to its intent and its relationship to their traditional land use responsibilities.

Master Plan Implementation Element and Self-Assessment Against Regional Plan

We support retaining the Implementation Element and adding a requirement for a self-assessment of local plan elements against similar subjects covered by a regional plan.

Subdivision Control Law (C.41, s.81) Changes

We support most of the changes proposed to the Subdivision Control Law and, in fact, believe this law deserves an extensive complete modernization but outside the current changes. Various provisions and the processes laid out in the current law probably lead to some of the issues with housing affordability across the State. We do suggest that the 21 day requirement for action on adjustments to lot lines be extended to 45 days as with most of our planning boards only meeting once a month, having to act within 21 days creates an undue burden on these volunteer boards and 45 days is not excessive if input is requested from other local officials and boards.

Approval Not Required Subdivisions (C.41, s.81HH (g))

BRPC opposes the concept of continuing the ANR provisions in any form (both in H.2420 and S.81) if communities adopt a minor subdivision provision. The House language is problematic in that it further encourages strip lots along arterial highways (State-Numbered Routes) which then reduces the traffic flow capacity of those highways. We are not going to be seeing new roadway capacity created to compensate for that loss and this provision will lead to increased air pollution, traffic accidents, and vehicular delay. Generally the State—numbered routes should be the last place one would want to encourage more lots and therefore driveways.

Discriminatory Land Use Practices

While BRPC definitely does not support discriminatory land use practices, adding this to the Massachusetts Commission Against Discrimination’s direct responsibilities will lead to very expensive litigation and considerable delays in decisions. The Courts are better equipped at this time to deal with local land use decisions which may have either a discriminatory intent or result.

Study of Educational Uses Under Sec. 3 of C.40A

S.81 contains a provision not in H.2420 establishing a special commission to study the use and effectiveness of the zoning approval process for educational uses. We support such a study and would

like it added to H.2420, with an additional stipulation that municipalities should be represented on such a commission.

Effective Dates

In order to manage the implementation of the wholesale changes which will be needed in probably every zoning ordinance and bylaw in the Commonwealth to comply with this law, we suggest that the effective dates for most provisions be more reasonable than one year and be a uniform 3 years after signing of the legislation. The exception would be for development impact fees which will require some time to perform the necessary studies and adoption of regulations to implement this provision but may not take three years to properly execute (many communities will not take this on at all; others may have more pressing needs).

Resources to Meet Requirements

Many of the new zoning and master plan requirements will take considerable resources to accomplish the needed changes to local zoning bylaws and ordinances and to bring master plans into compliance with the much more rigorous stipulations contained in this bill. Even communities with a planner (which is only five of 32 Berkshire municipalities) the major changes required will overwhelm their existing resources. Many of our communities are at or close to their levy ceilings and do not have the funding necessary to accomplish this, without taking away from other very pressing needs. Significant state funding will be needed to actually meet the new requirements.

The Berkshire Regional Planning Commission respectfully requests that the Joint Committee on Municipalities and Regional Government consider the modifications we request and then expeditiously favorably report out the legislation, as modified.

Sincerely,

Nathaniel W. Karns, AICP
Executive Director

Cc: The Honorable Stanley Rosenberg, President of the Senate
The Honorable Robert DeLeo, Speaker of the House
The Honorable Adam Hinds, Senator, Berkshire, Franklin and Hampshire District
The Honorable Paul Mark, Representative, 2nd Berkshire District
The Honorable Tricia Farley-Bouvier, Representative, 3rd Berkshire District
The Honorable Smitty Pignatelli, Representative, 4th Berkshire District
The Honorable Stephen Kulik, 1st Franklin District
The Honorable Sarah Peake, 4th Barnstable District
Geoffrey Beckwith, Massachusetts Municipal Association
Massachusetts Association of Regional Planning Agencies
Massachusetts Chapter, American Planning Association

The Honorable Julian Cyr
Senate Co-Chair
Joint Committee on Community Development and Small Business
State House, Room 218
Boston, MA 02133

The Honorable Edward F. Coppinger
House Co-Chair
Joint Committee on Community Development and Small Business
State House, Room 26
Boston, MA 02133

RE: S.81 – An Act Promoting Housing and Sustainable Development

Dear Senator Cyr and Representative Coppinger:

The Berkshire Regional Planning Commission, which serves the thirty-two cities and towns in Berkshire County, wishes to indicate its overall support for the passage of S.81., sponsored by Senator Chandler, but desire that it be modified to conform more closely with H.2420 which has been heard by the Joint Committee on Municipalities and Regional Government. The Commonwealth's land use laws are some of the oldest and outdated land use laws in the U.S. They discourage smart growth and deprive cities and towns of modern zoning and planning tools to address twenty-first century challenges. The proposed bill will finally modernize the zoning, planning and subdivision laws of the Commonwealth. Comprehensive land use reform legislation has been introduced and discussed by the legislature for over a decade, without action. We hope that the Joint Committee on Community Development and Small Business will report the bill out favorably, with some modifications. Our comments on major sections of the bill are:

Certification Program for Municipalities

As we have commented consistently on prior comprehensive land use reform legislation, BRPC has considerable concern with any municipal land use planning and zoning certification program which rewards communities which adopt certain measures and places those who do not at a disadvantage for competitive grants. Many of our member communities simply do not have the staff resources, volunteer expertise or financial means to comply with the certification requirements. They will need significant state funding in order to reasonably consider these measures and then to adopt them if they so choose.

Accessory Dwelling Unit Requirement

We support the requirement that accessory dwelling units must be permitted within single family dwellings, with appropriate regulations, without requiring a special permit. We believe that allowing a community to require that at least one of the units in the dwelling be owner-occupied, set an overall limit on the percentage of such units, be exempted if there already are at least 5% multi-family units in the community, or if housing sale prices have declined in the community are important safeguards.

Multi-Family and Open Space Residential Development Requirement

While generally we support the requirement that multi-family residential use by right should be required in some portion of most communities, we believe some modifications to this section are

warranted. The language should explicitly allow “by-right, subject to site plan review.” This will allow communities to set reasonable site requirements while not allowing them to prohibit multi-family development. We believe that requiring every rural town to apply to DHCD for a waiver when they neither currently have nor will have water and sewer in a reasonable future nor any areas even remotely suitable for 40R status is an unwarranted burden on very small towns with no staff. It would be more productive to simply set an exclusion for towns with year-round populations of 250 people per square mile or less and with no existing or planned water and sewer.

While we support the concept that Open Space Residential Development must be allowed by right, it is very questionable how this will be implemented in most Berkshire communities due to their lack of planning resources. We also feel that this makes it more critical to modernize the Subdivision Control Law which creates a set of barriers to more flexible development practices.

Majority and Supermajority Voting on Zoning Matters

The issue of allowing each community to make its own decisions regarding whether zoning adoption and amendments, special permits, and variances are by super-majority or simple majority votes comes up in various sections of the bill. We support allowing the community to decide. We believe changing the current super-majority to simple majority by supermajority vote of the legislative body is appropriate. We believe that changing the existing supermajority vote on special permits to simple majority should require a legislative body vote rather than require a vote in order to retain the supermajority requirement. We think that the requirement that any zoning change subject to a landowner protest must be by supermajority, regardless of the standard requirement set by the community, such as simple majority voting, is fraught with pitfalls and should be dropped.

Provision for Different Voting Majority if Accessory Dwelling, Multi-Family, or OSRD Bylaw Proposals Fail

The bill indicates that if a legislative vote to approve any of the required Accessory Dwelling, Multi-Family or OSRD Bylaw proposals fails to gain the required super-majority, they may be subsequently approved by a simple majority. This will be very confusing to communities, especially those that use town meetings. For instance, who has the authority to require that the subsequent simple majority vote rule applies? It would be more straightforward to either remove this language in its entirety or, failing that, to simply state that the initial votes to adopt these provisions are by simple majority.

Vesting and Grandfathering Provisions

We support many of the provisions which clarify and clean-up the language on when proposed projects are vested and the grandfathering provisions. However, we believe that the provisions contained in H.2420 (Representatives Kulik and Peake) are much preferable to those in S.81. We especially support the changes which clarify that only the actual project proposed through an ANR plan is protected, and that the simple filing of an ANR plan does not freeze all aspects of the existing zoning. We believe that clarity needs to be added regarding the status of applications which are submitted and processed after publication of notice of a potential zoning change but before a vote of the legislative body has occurred. We do not believe they should be protected from the possible zoning change since this could lead to filing of applications quickly to avoid new requirements, but what happens if they attempt to meet new requirements which then do not get adopted? Especially given the length of time that a zoning amendment takes to be approved from public notice to final legislative vote, this could be a considerable delay for the project proponent. We suggest that a reasonable approach may be to provide a reasonably limited amount of time for the zoning amendment to receive legislative consideration or otherwise the proposed project proceeds under the zoning in existence when the permit was applied for.

Site Plan Review Authority

While we support the explicit provision for site plan review, this tool has received legal blessing from the Massachusetts' courts. We believe some of the language is problematic, such as conditions placed on a site plan are limited to impacts on properties within 300 feet. While 300 feet is an adequate distance for many issues dealt with in site plan review, lighting and noise, specifically, can create impacts much greater than 300 feet and can be very site specific due to topography, vegetation and other screening, height and types of lights, and atmospheric conditions for noise. No fixed distance limitation can adequately accommodate these variations.

Development Impact Fees and Inclusionary Zoning

We support the authorization for Impact Fees and Inclusionary Zoning.

Land Use Dispute Avoidance Process

The bill prohibits a bylaw or ordinance from not allowing a developer of a 40B permit to request use of a land use dispute avoidance process. This may be an unnecessary carry-over from previous versions of this legislation since there is no land use dispute avoidance process in the current bill.

Standards for Granting Variances

We support loosening the standards for permitting variances and prefer the language used in S.81 over that used in H.2420.

Surety or Cash Bond Requirements for Appeals

We are concerned that this possible requirement for surety or cash bonds if a judicial appeal is filed will put Environmental Justice communities at a disadvantage. A \$15,000 cash bond may be well beyond the means of neighbors in a low-income community but will not be a deterrent at all in a wealthy neighborhood.

Smart Growth Zoning or Starter Home Zoning Districts

We support the provision in H.2420, which is absent in S.81, that smart growth or starter home zoning districts can be adopted by simple majority vote.

Master Plans (Chapter 41, s.81D)

We believe the wholesale changes in the language for master plans will lead to fewer communities even trying to develop these important documents. The requirements laid out both for the mandatory and voluntary elements are intimidating and overly proscriptive. We believe that the first 3 sections add good guidance and intent statements. There should be a general statement that planning boards should consult with other appropriate local officials, boards and commissions in developing master plans, rather than scattered limited references (agricultural commissions and boards of health).

Natural Resources & Energy Element

While both of these are important for master plans to cover and the addition of consideration of energy in master plans is a useful addition to the enabling legislation, we believe they should be dealt with separately. Natural Resources, Open Space and Recreation should be one element with allowance that an Open Space and Recreation Plan should be considered as equivalent. Energy and Climate Change should be a totally separate element as it should encompass a wide variety of issues, well beyond land use and natural resources and should encompass mitigation, adaptation and vulnerability assessment.

Mandatory versus Voluntary Elements

We believe the transportation element should be mandatory. We do not believe that there should be a separate possible Open Space and Recreation element but this should be covered under the Natural Resources element discussed above.

Other Comments on Specific Master Plan Elements

The Cultural Resources Element should be “Cultural Resources & Historic Preservation Element.” While the two might be synonymous, they are not necessarily so but typically have a strong inter-relationship. The Infrastructure and Capital Facilities Element should be “Infrastructure and Community Facilities Element” and it is premature to require costs and revenues in a master plan element. These are typically dealt with in a community’s Capital Improvements Program which typically includes items such as major equipment or systems which are not facilities but are major capital expenses with extended service lives. The Water Facilities element is much more specific than the other elements and seems to be more on the order of regulations rather than setting legislative policy. The Public Health Element needs to be carefully redrafted to make it something that a planning board can relate to its intent and its relationship to their traditional land use responsibilities.

Master Plan Implementation Element and Self-Assessment Against Regional Plan

We support retaining the Implementation Element and adding a requirement for a self-assessment of local plan elements against similar subjects covered by a regional plan.

Subdivision Control Law (C.41, s.81) Changes

We support most of the changes proposed to the Subdivision Control Law and, in fact, believe this law deserves an extensive complete modernization but outside the current changes. Various provisions and the processes laid out in the current law probably lead to some of the issues with housing affordability across the State. We do suggest that the 21 day requirement for action on adjustments to lot lines be extended to 45 days as with most of our planning boards only meeting once a month, having to act within 21 days creates an undue burden on these volunteer boards and 45 days is not excessive if input is requested from other local officials and boards.

Approval Not Required and Minor Subdivisions (C.41, s.81HH (g))

BRPC opposes the concept of continuing the ANR provisions in any form (both in H.2420 and S.81) if communities adopt the minor subdivision provision and we support allowing municipalities to use a minor subdivision process as a very reasonable substitute. We believe the S.81 ANR provisions for those communities electing to adopt a minor subdivision process are overly complicated but do have the benefit of creating an ultimate cap on the number of ANR lots which may result. We are very opposed to H.2420 language which encourages lot (and driveway) creation along major roadways (state-numbered routes) which makes these arterials less safe and more congested.

Discriminatory Land Use Practices

While BRPC definitely does not support discriminatory land use practices, adding this to the Massachusetts Commission Against Discrimination’s direct responsibilities will lead to very expensive litigation and considerable delays in decisions. The Courts are better equipped at this time to deal with local land use decisions which may have either a discriminatory intent or result.

Study of Educational Uses Under Sec. 3 of C.40A

BRPC supports establishing a special commission to study the use and effectiveness of the zoning approval process for educational uses. We support such a study, with an additional stipulation that municipalities should be represented on such a commission.

Effective Dates

In order to manage the implementation of the wholesale changes which will be needed in probably every zoning ordinance and bylaw in the Commonwealth to comply with this law, we suggest that the effective dates for most provisions be more reasonable than one year and be a uniform 3 years after signing of the legislation. The exception would be for development impact fees which will require some time to perform the necessary studies and adoption of regulations to implement this provision but may not take three years to properly execute (many communities will not take this on at all; others may have more pressing needs).

Resources to Meet Requirements

Many of the new zoning and master plan requirements will take considerable resources to accomplish the needed changes to local zoning bylaws and ordinances and to bring master plans into compliance with the much more rigorous stipulations contained in this bill. Even communities with a planner (which is only five of 32 Berkshire municipalities) the major changes required will overwhelm their existing resources. Many of our communities are at or close to their levy ceilings and do not have the funding necessary to accomplish this, without taking away from other very pressing needs. Significant state funding will be needed to actually meet the new requirements.

The Berkshire Regional Planning Commission respectfully requests that the Joint Committee on Community Development and Small Business consider the modifications we request and then expeditiously favorably report out the legislation, as modified.

Sincerely,

Nathaniel W. Karns, AICP
Executive Director

Cc: The Honorable Stanley Rosenberg, President of the Senate
The Honorable Robert DeLeo, Speaker of the House
The Honorable Adam Hinds, Senator, Berkshire, Franklin and Hampshire District
The Honorable Paul Mark, Representative, 2nd Berkshire District
The Honorable Tricia Farley-Bouvier, Representative, 3rd Berkshire District
The Honorable Smitty Pignatelli, Representative, 4th Berkshire District
The Honorable Stephen Kulik, 1st Franklin District
The Honorable Sarah Peake, 4th Barnstable District
Geoffrey Beckwith, Massachusetts Municipal Association
Massachusetts Association of Regional Planning Agencies
Massachusetts Chapter, American Planning Association
Andre Leroux, Massachusetts Smart Growth Alliance

The Honorable Julian Cyr
Senate Co-Chair
Joint Committee on Community Development and Small Business
State House, Room 218
Boston, MA 02133

The Honorable Edward F. Coppinger
House Co-Chair
Joint Committee on Community Development and Small Business
State House, Room 26
Boston, MA 02133

RE: S.94 – An Act Improving Housing Opportunities and the Massachusetts Economy

Dear Senator Cyr and Representative Coppinger:

The Berkshire Regional Planning Commission, which serves the thirty-two cities and towns in Berkshire County, wishes to indicate its opposition to the passage of S.94, sponsored by Senator Rodrigues. This proposal represents a step backwards in the continued effort to promote more housing opportunity and economic growth throughout the Commonwealth. Most of its provisions are actually contrary to that effort. While there are undoubtedly some valid reasons behind many of the provisions which need to be better understood, they are provided out of context with the overall legislation which they impact and will only lead to more obstacles to coherent, effective development in Massachusetts.

A brief summary of our concerns includes:

- Section 1 – requires that every community have not less than 1.5% of its land area zoned for multi-family residential development at not less than 20 units per acre. A large number of communities in the Commonwealth lack water and sewer and half have population densities of less than 500 people per square mile (roughly .4 units per acre). It is unreasonable to require them to create the required multi-family zones.
- Sections 3 & 4 – prohibit the possibility to require a “yield plan” to determine how many lots might be built on a given piece of land in order to determine the appropriate number which might be developed under cluster development, which would be required. A yield plan is a standard tool which more accurately determines the possible number of lots than a simplistic mathematical formula which is the other possible option.
- Section 5 – requires that accessory dwelling units be permitted in all single-family zoning districts, with no ability to limit the overall number and concentration and regardless of whether a community is providing considerable multi-family units in other fashions.
- Section 8 – site plan review would not be permitted if a proposed project was seeking a variance or required a special permit, except as part of the variance or special permit process. Many variances involve minor setback, height or frontage requirements and do not cover the overall development on the piece of property. This prohibition on site plan review would mean that applicants might well seek a simple variance in order to avoid a reasonable site plan review. Further, the language appears to limit site plan review to planning boards; in various circumstances, some city councils, select boards and zoning boards perform some site plan reviews. The requirement that the applicant must agree to conditions placed on site plan approval is strongly opposed and limiting conditions to those which “reasonably mitigate any

extraordinary direct adverse impacts of the proposed improvements on adjacent properties” will lead to excessive litigation and is a totally unreasonable standard.

- Section 14 – requires the municipality to maintain, on a continual basis, a list of qualified consultants it will use to assist it in reviewing applications and the applicant shall have the right to pick which consultant will be used by the municipality. This is opposed for several reasons: 1) many communities rarely use this provision and thus maintenance of such a list is an unnecessary mandate; 2) the municipality is not going to reasonably be able to have consultants already identified for the myriad of issues which may require an outside expert, such as if they have a ground-water issue requiring a geologist or a noise issue requiring an acoustic expert; and 3) there will be an automatic conflict of interest for the consultant as to who their client actually is if the applicant gets to pick but they are being paid by the municipality.
- Section 15 – limits any evidence used in appeals to that which was presented to the local board or commission to assist it in reaching its decision. Many boards do not routinely use technical experts to help them in reviewing and considering applications due to a sensitivity of the cost to the applicant. This limitation will tend to make them use more experts even in cases that would probably not require them, adding to applicant’s costs.

The Berkshire Regional Planning Commission respectfully requests that the Joint Committee on Community Development and Small Business recommend that this bill not be approved. We also recommend that the bill’s sponsors work closely with Representatives Kulik and Peake and Senator Chandler to deal with legitimate concerns they have within the context of S.81 and H.2420, which are far more comprehensive approaches to dealing with the antiquated land use laws in the Commonwealth.

Sincerely,

Nathaniel W. Karns, AICP
Executive Director

Cc: The Honorable Stanley Rosenberg, President of the Senate
The Honorable Robert DeLeo, Speaker of the House
The Honorable Adam Hinds, Senator, Berkshire, Franklin and Hampshire District
The Honorable Paul Mark, Representative, 2nd Berkshire District
The Honorable Tricia Farley-Bouvier, Representative, 3rd Berkshire District
The Honorable Smitty Pignatelli, Representative, 4th Berkshire District
The Honorable Michael J. Rodrigues, First Bristol and Plymouth District
Geoffrey Beckwith, Massachusetts Municipal Association
Massachusetts Association of Regional Planning Agencies
Massachusetts Chapter, American Planning Association

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

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

MEMORANDUM

TO: Delegates & Alternates, Berkshire Regional Planning Commission
FROM: Nathaniel W. Karns, AICP, Executive Director
DATE: July 24, 2017
SUBJ: Approval to Submit Grant Application to the Department of Energy Resources for Affordable Access Regional Coordination Program

The Commission is requested to authorize the Executive Director to apply to DOER's new Affordable Access Regional Coordination Grant Program and to sign any resulting agreements or contracts. We are applying to DOER for this new program in order to build BRPC's capacity to serve as a resource to municipalities or other community-based organizations to increase energy efficiency and renewable energy opportunities for low income housing in the county. This application will also provide training and education to local housing organizations and housing unit owners to promote access to affordable energy efficiency and renewable energy opportunities, such as maximizing incentive and rebate programs and streamlining renewable projects such as community solar or third party solar PV. The State has become aware that while individual homeowner, large business, and community-wide energy efficiency and renewable energy programs have been very successful across the state, the lower income population and landlords who provide many small scale rental units are not taking advantage of the energy programs which are available. This new program is intended to build regional and local capacity to do so. No BRPC or local match is required. The grant application requires board approval.

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

MEMORANDUM

TO: Delegates and Alternates, Berkshire Regional Planning Commission
FROM: Nathaniel W. Karns, AICP, Executive Director
DATE: June 7, 2017
SUBJ: Approval of Executive Committee Actions

In accordance with the bylaws, all actions taken by the Executive Committee on the Commission's behalf must be endorsed at the next Commission meeting.

The Executive Committee took the following actions at its June 1, 2017 meeting:

- **Approved the Berkshire County Comprehensive Economic Development Strategy**

The Executive Committee was authorized to give final approval to the 2017 Berkshire County Comprehensive Economic Development Strategy by the full Commission. There were some comments and corrections suggested at the May 18th Commission meeting. The changes were made which are also now reflected in the full document which is available on BRPC's website.

- **Approved the Executive Director on behalf of the Commission to Submit a Letter of Support for H.2932, An Act Establishing the Mohawk Trail Woodlands Partnership**

The Executive Committee was requested to approve a letter supporting H.2932, the state legislation needed to create the Mohawk Trail Woodlands Partnership. A presentation was made at the January Commission meeting on the Partnership. The City of North Adams and all towns within the Partnership area in the county have been approving similar letters and it seems to be appropriate for the Commission to also be on record in support. A draft letter and a copy of the legislation, which is sponsored by Rep. Kulik and co-sponsored by Sen. Hinds and Reps. Cariddi and Mark, are attached. For further information, contact Assistant Director Tom Matuszko at 442-1521, ext. 34 or tmatuszko@berkshireplanning.org.

- **Approved the Executive Director on behalf of the Commission to Submit Grant Application to Massachusetts Department of Energy Resources Affordable Access Regional Coordination Grant Program**

The Executive Committee was requested to authorize the Executive Director to apply to DOER's new Affordable Access Regional Coordination Grant Program and to sign any resulting agreements or contracts. We are probably applying to DOER for this new program in order to build BRPC's capacity to serve as a resource to municipalities or other community-based organizations to increase energy efficiency and renewable energy opportunities for low incoming housing in the county. This application will also provide training and education to local housing organizations and housing unit owners to promote access to affordable energy efficiency and renewable energy opportunities, such as maximizing incentive and rebate programs and streamlining renewable projects such as community solar or third party solar PV. No match is required.

Attachments:

2017 Berkshire County Comprehensive Economic Development Strategy

Letter Supporting H.2932, An Act Establishing the Mohawk Trail Woodlands Partnership

H.2932, An Act Establishing the Mohawk Trail Woodlands Partnership (Rep. Kulik, Sponsor; Sen. Hinds, Reps. Cariddi and Mark, Co-Sponsors)

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

Senator Adam Hinds
MA State House, Room 309
Boston, MA 02133

Senator Stan Rosenberg
MA State House, Room 332
Boston, MA 02133

Representative Stephen Kulik
MA State House, Room 238
Boston, MA 02133

Representative Paul Mark
MA State House, Room 166
Boston, MA 02133

Representative Gail Cariddi
MA State House, Room 36
Boston, MA 02133

Dear Legislators:

The Berkshire Regional Planning Commission strongly supports the adoption of House Bill No. 2932, an Act establishing the Mohawk Trail Woodlands partnership. This legislation would create a Special Designation for a 21-Town region in Northern Berkshire and Western Franklin Counties based on the "Framework" contained in the recently completed Mohawk Trail Woodlands Partnership (MTWP) Plan. The goals of the Plan are to support forest based economic development and natural resource based tourism, increase forest land conservation, improve forest management, and to support municipal financial sustainability. This Plan has been developed over many months with extensive community input. The project has been under the direction of the MTWP Advisory Committee. The Committee has representation from 20 of the 21 towns and 8 regional members representing forestry, economic development, environmental, conservation and regional planning organizations.

The Committee has been working closely with the MA Executive Office of Energy & Environmental Affairs, the U.S. Forest Service, the Berkshire Regional Planning Commission (BRPC), and the Franklin Regional Council of Governments (FRCOG) to create a new model for forest conservation and rural economic development based on private forest land ownership. With the extensive forest resources (over 290,000 acres of forest) and varied topography of the 21-town region there is a convergence of different forest types within a small geographic area. As a result, the region affords a unique opportunity for research and

demonstration forestry that could be instructive to many other areas of the eastern United States. The 21-town region also includes the headwaters for the Hoosic, Westfield, and Deerfield Rivers, and forests help to maintain the high water quality in those watersheds.

Passage of State legislation is a critical step to implementing the recommendations of the Plan and would identify the geographic area, eligible communities, programmatic priorities, and financial and governance structure of the Partnership. Once State legislation is passed, each town would have the opportunity to “opt-in” to formally join the Partnership via a vote of the Select Board or Town Meeting. If enough of the 21-towns opt-in, Federal legislation would be pursued based on the State legislation and it would formalize the partnership with the U.S. Forest Service to provide funding and technical assistance to participating communities to implement the programmatic priorities of the Partnership.

We are excited about the potential for the Mohawk Trail Woodlands Partnership to address the needs of rural communities to improve their local economies and financial sustainability while increasing the opportunities for private landowners to conserve their forests and improve their resiliency through sustainable forest management. More information on the Plan is on the BRPC website, http://berkshireplanning.org/images/uploads/projects/MTWP_Plan_REVISED_Oct2016.pdf.

We greatly appreciate the assistance and guidance you have provided to BRPC and FRCOG staff throughout this process to date. We look forward to continuing to work with you as the legislation moves through the adoption process.

Sincerely,

Nathaniel W. Karns
Executive Director

HOUSE No. 2932

The Commonwealth of Massachusetts

PRESENTED BY:

Stephen Kulik

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the adoption of the accompanying bill:

An Act establishing the Mohawk Trail Woodlands partnership.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
<i>Stephen Kulik</i>	<i>1st Franklin</i>
<i>Adam G. Hinds</i>	<i>Berkshire, Hampshire, Franklin and Hampden</i>
<i>Gailanne M. Cariddi</i>	<i>1st Berkshire</i>
<i>Paul W. Mark</i>	<i>2nd Berkshire</i>

HOUSE No. 2932

By Mr. Kulik of Worthington, a petition (accompanied by bill, House, No. 2932) of Stephen Kulik and others for legislation to establish the Mohawk Trail woodlands partnership fund. Environment, Natural Resources and Agriculture.

The Commonwealth of Massachusetts

**In the One Hundred and Ninetieth General Court
(2017-2018)**

An Act establishing the Mohawk Trail Woodlands partnership.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. Chapter 29 of the General Laws is hereby amended by inserted after section
2 2VVVV the following section:-

3 Section 2WWWW. There shall be established and set up on the books of the
4 commonwealth a separate fund to be known as the Mohawk Trail Woodlands Partnership Fund.
5 The fund shall be administered by the Mohawk Trail Woodlands Partnership Board as
6 established by the special act creating such board. There shall be credited into the fund revenues
7 or other financing sources directed to the fund by appropriation, bond revenues or other monies
8 authorized by the general court and specifically designated to be credited to that fund, any
9 income derived from the investing of amounts credited to the fund and the monies from the
10 repayment of loans from the fund, funds from public or private sources, including, but not
11 limited to, gifts, federal or private grants, donations, rebates and settlements received by the
12 commonwealth that are specifically designated to be credited to the fund and all other amounts

13 credited or transferred into the fund from any other source. Amounts credited to said fund shall
14 be held in an expendable trust and shall be used solely for implementing the purposes and
15 administration of Mohawk Trail Woodland Partnership as set forth in the special act creating
16 such partnership. Unexpended funds shall be allowed to carry over from year to year and be
17 expended in subsequent years without appropriation. No expenditure from the fund shall cause it
18 to be in deficiency.

19 SECTION 2. To capitalize the Mohawk Trail Woodland Partnership Fund established in
20 section 2WWW of Chapter 29 of the General Laws and support the goals of the Mohawk Trail
21 Woodland Partnership a total of \$6,000,000 shall be sought from either a general appropriation
22 or capital expenditure authorization, or a combination of the two.

23 SECTION 3. (a) For the purposes of this section, the following terms shall, unless the
24 context clearly requires otherwise, have the following meanings:-

25 “Participating Communities”, municipalities within the Mohawk Trail Woodlands
26 Partnership Eligibility Area that affirmatively vote to participate in the activities of the Mohawk
27 Trail Woodlands Partnership as described in subsection (c).

28

29 “Partnership”, a cooperative association among those entities and individuals working
30 collaboratively to achieve the purposes described in subsection (b) in the Mohawk Trail
31 Woodlands Partnership Area as described in subsection (c).

32 “Permanently protected open space”, land permanently protected from development and
33 includes state parks, state forests and state wildlife management areas, land owned by

34 conservation organizations for conservation purposes, town or city owned land under the
35 jurisdiction of the town or city conservation commission for park or conservation use, and
36 privately-owned farm and forestland protected through the Agricultural Preservation Restriction
37 Program or a conservation restriction.

38 “Sustainable forest management”, the carefully planned growing, management,
39 harvesting and regeneration of woodlands that conserves or promotes biological diversity,
40 ecological functions, soil productivity, water and air quality, carbon storage, and cultural
41 resources and recreational use of the forest while also providing a continuous yield of a range of
42 useable forest products. Sustainable forest management also considers the surrounding forest
43 landscape.

44 (b) The purposes of the Mohawk Trail Woodlands Partnership are:

45 (1) to support and expand sustainable forest management;

46 (2) to increase forest land conservation through conservation restrictions that encourage
47 sustainable forestry;

48 (3) to support and increase natural resource based economic development and
49 employment;

50 (4) to support and provide education and visitor information programs to increase public
51 understanding of and appreciation for the ecological, recreational and economic benefits of
52 forests;

53 (5) to support and promote the long term social and fiscal sustainability of the
54 Participating Communities in the area; and

55 (6) to create a long term partnership between towns and cities, regional organizations,
56 the executive office of energy and environmental affairs, and the United States Forest Service.

57 (c) (1) To achieve the purposes identified in subsection (b) there is hereby established the
58 Mohawk Trail Woodlands Partnership Area, which shall consist of 2 separate boundaries: (1) the
59 Mohawk Trail Woodlands Partnership Eligibility Area; and (ii) the Mohawk Trail Woodlands
60 Partnership Activities Area.

61 (2) The Mohawk Trail Woodlands Partnership Eligibility Area shall be comprised of the
62 lands defined by the municipal boundaries of Adams, Cheshire, Clarksburg, Florida, New
63 Ashford, North Adams, Peru, Savoy, Williamstown and Windsor in Berkshire county, and
64 Ashfield, Buckland, Charlemont, Colrain, Conway, Hawley, Heath, Leyden, Monroe, Rowe, and
65 Shelburne in Franklin county.

66 (3) The Mohawk Trail Woodlands Partnership Activities Area shall consist of the land in
67 those municipalities described in the Mohawk Trail Woodlands Partnership Eligibility Area that
68 have taken an affirmative vote of a town meeting or board of selectmen in towns or city council
69 or mayor in cities to participate in the activities of the Mohawk Trail Woodlands Partnership as
70 specified in the Partnership Plan as defined in subsection (g).

71 (4) Municipalities within the Mohawk Trail Woodlands Partnership Eligibility Area shall
72 have 2 years after the effective date of this act to affirmatively vote to participate in the activities
73 of the Mohawk Trail Woodlands Partnership and become Participating Communities.
74 Notwithstanding the preceding sentence, if a municipality within the Mohawk Trail Woodlands
75 Partnership Eligibility Area does not vote affirmatively to participate in the activities of the
76 Mohawk Trail Woodlands Partnership within 2 years after the effective date of this act, the

77 municipality may affirmatively vote to become a Participating Community after 5 years have
78 passed from the effective date of this act.

79 (5) The Mohawk Trail Woodlands Partnership Eligibility Area and the Mohawk Trail
80 Woodlands Partnership Activities Area may be expanded 5 years after enactment of this
81 legislation by a 2/3 vote of the entire partnership board, established pursuant to Subsection (e),
82 and a majority vote of the partnership board members from the Participating Communities after
83 the establishment of criteria for expansion by said partnership board. Criteria for expansion
84 should include such factors as geographic proximity, forestry and natural resources, and financial
85 capacity of the partnership.

86 (d) (1) Programs and activities of the Mohawk Trail Woodlands Partnership shall, to the
87 extent possible, be conducted in partnership and collaboration between the units of federal, state
88 and local government, including but not limited to the United States Forest Service, the
89 commonwealth and its applicable subdivisions and others in accordance with the integrated
90 partnership plan specified in subsection (g).

91 (2) Nothing in this section shall be construed to diminish, enlarge, or modify any right of
92 the federal government, the commonwealth or any political subdivision thereof, to exercise civil
93 and criminal jurisdiction or to carry out federal, state, or local laws, rules, and regulations within
94 the lands and waters included in the Mohawk Trail Woodlands Partnership Eligibility Area.

95 (e) (1) There is hereby established the Mohawk Trail Woodlands Partnership Board
96 whose purpose shall be to coordinate the partnership activities of participating federal, state, and
97 local authorities and the private sector in the development and implementation of the programs

98 and activities identified in an integrated partnership plan for the Mohawk Trail Woodlands
99 Partnership Activities Area.

100 (2) The partnership board shall be composed of the following members:

101 (A) One individual, appointed by the respective board of selectmen or mayor, from each
102 of the Participating Communities.

103 (B) One individual, appointed by the Chief of the United States Forest Service, to
104 represent the United States Forest Service, provided that Federal legislation is enacted that
105 authorizes the participation of the United States Forest Service.

106 (C) One individual, appointed by the secretary of energy and environmental affairs, to
107 represent the executive office of energy and environmental affairs.

108 (D) One individual, appointed by the executive director of the Franklin Regional Council
109 of Governments to represent the Franklin Regional Council of Governments.

110 (E) One individual, appointed by the executive director of the Berkshire Regional
111 Planning Commission, to represent the Berkshire Regional Planning Commission.

112 (F) One individual, appointed by action of the board of directors of the Massachusetts
113 Forest Alliance Limited, to represent the Massachusetts Forest Alliance Limited.

114 (G) One individual, appointed by action of the chair of the Massachusetts Chapter of the
115 Yankee Division of the New England Society of American Foresters, to represent the
116 Massachusetts Chapter of the Yankee Division of the New England Society of American
117 Foresters.

118 (H) One individual, appointed by action of the board of directors of the Franklin Land
119 Trust, Inc., to represent the Franklin Land Trust.

120 (I) One individual, appointed by action of the board of directors of the Berkshire Natural
121 Resources Council, Inc., to represent the Berkshire Natural Resources Council.

122 (J) One individual, appointed by action of the board of directors of the Greater
123 Shelburne Falls Area Business Association, Inc., to represent the Greater Shelburne Falls Area
124 Business Association.

125 (K) One individual, appointed by action of the board of directors of Lever, Inc., to
126 represent Lever, Inc.

127 (L) One individual, appointed by action of the board of directors of the Deerfield River
128 Watershed Association, Inc., to represent the Deerfield River Watershed Association.

129 (M) One individual, appointed by action of the board of directors of the Hoosic River
130 Watershed Association, Inc., to represent the Hoosic River Watershed Association.

131 (N) Should the names of any entity of the aforementioned members change, the
132 replacement entity shall be considered a member subject to the appointment of the appointing
133 authority of that entity.

134 (O) Should any of the entities of the aforementioned members cease to exist, the
135 partnership board may, by majority vote, name a like entity to represent the interests of the
136 original member entity represented.

137 (P) The partnership board may, by 2/3 vote, allow additional members to the partnership
138 board, provided the mission of the additional member aligns with the purposes identified in

139 subsection (b) and also provided that no additional members shall be allowed if the total number
140 of members from those entities identified in clauses (B) through (O), exceeds those identified in
141 clause (A).

142 (3) (A) Members of the partnership board shall serve for terms of 3 years or until another
143 representative is appointed from said appointing entity.

144 (B) Members may be re-appointed to serve for multiple terms.

145 (4) The partnership board shall elect 1 of its members as chairperson and 1 as vice
146 chairperson. The term of office of the chairperson and vice chairperson shall be 3 years. The vice
147 chairperson shall serve as chairperson in the absence of the chairperson.

148 (5) Any vacancy on the partnership board shall be filled in the same manner in which the
149 original appointment was made.

150 (6) The partnership board shall meet no less than 2 times per year or at the call of the
151 chairperson or a majority of its members. Meetings shall be open to the public.

152 (7) A majority of the partnership board members shall constitute a quorum. For the
153 purposes of meeting quorum requirements, vacancies shall not be counted to determine a
154 majority.

155 (8) Each member of the partnership board shall be entitled to 1 vote which shall be equal
156 to every other member of the partnership board. All matters considered by the partnership board
157 shall be decided by an affirmative vote of a minimum of a majority of the members present,
158 except for those actions requiring a 2/3 vote as specified in this act.

159 (9) The partnership board shall:

160 (A) initiate the development and review of and approve the partnership plan as defined in
161 subsection (g);

162 (B) oversee implementation of the partnership plan as defined in subsection (g);

163 (C) annually review and approve an annual budget that identifies the sources and uses of
164 funds to implement the partnership plan. Said annual budget shall indicate funding levels for
165 each of the purposes identified in subsection (b);

166 (D) designate a legally established entity to serve as the administrative agent for the
167 Mohawk Trail Woodlands Partnership as set forth in subsection (f); and

168 (E) designate a legally established entity to serve as the fund manager for the Mohawk
169 Trail Woodlands Partnership Fund as described in subsection (h).

170 (10) The partnership board shall establish an executive committee of the members of the
171 partnership board. The executive committee shall consist of 5 members.

172 (A) The executive committee members shall consist of: 2 members appointed pursuant to
173 clause (A) of paragraph (2) to be elected by the partnership board; 1 member from the United
174 States Forest Service appointed pursuant to clause (B) of paragraph (2); 1 member from the
175 executive office of energy and environmental affairs appointed pursuant to clause (C) of
176 paragraph (2); and 1 member from the remaining members of the partnership board, appointed
177 pursuant to clauses (D) to (P), inclusive, of paragraph (2), to be selected by the partnership
178 board. The partnership board chair shall automatically be a member of the executive committee
179 thereby filling the executive committee membership requirement for that membership slot, such
180 that, if the partnership board chair is a member from a municipality appointed pursuant to clause

181 (A) of paragraph (2), there shall only be 1 other member from a municipality appointed pursuant
182 to said clause (A) of said paragraph (2) on the executive committee and such that if the
183 partnership board chair is a member appointed pursuant to clauses (D) to (P) inclusive, of said
184 paragraph (2) that member shall fulfill the executive committee membership requirement for
185 members appointed pursuant to clauses (D) to (P), inclusive, of said paragraph (2).

186 (B) The executive committee shall provide direction to the administrative agent to
187 conduct activities as described in subsection (f).

188 (C) The executive committee shall approve expenditures of the administrative agent as
189 they relate to the implementation of the partnership plan.

190 (D) The executive committee shall approve the staff of the administrative agent working
191 to implement the partnership plan.

192 (E) The executive committee shall provide regular reports to the partnership board.

193 (F) The executive committee may assume other responsibilities necessary to implement
194 the partnership plan.

195 (11) The partnership board shall prepare and adopt, by a 2/3 vote, bylaws covering
196 regular operating practices of the partnership board and the executive committee of the
197 partnership board.

198 (f) (1) Within 1 year after the date of enactment of this act and receipt of any federal or
199 state appropriation, the Mohawk Trail Woodlands Partnership Board shall designate an existing
200 or newly created non-profit entity to serve as the administrative agent for the Mohawk Trail
201 Woodlands Partnership. Provided funding is available, the administrative agent shall, under the

202 direction of the partnership board, implement the partnership plan. The Mohawk Trail
203 Woodlands Partnership Board shall have the authority to designate a different entity as
204 administrative agent by a 2/3 vote.

205 (2) The administrative agent shall, with the approval of the executive committee, be
206 entitled to receive and expend funds from the Mohawk Trail Woodlands Partnership Fund,
207 established in section 2WWW of chapter 29 of the General Laws and subject to the
208 requirements set forth subsection (h) for the purposes of implementing the partnership plan.

209 (3) For the purposes of implementing the partnership plan described in subsection (g)
210 and notwithstanding any other provision of law, the administrative agent of the partnership may
211 seek and accept donations of funds, grants, revenue, property, or services from individuals,
212 foundations, corporations, and other private and public entities for the purpose of carrying out
213 the partnership plan.

214 (4) For purposes of implementing the partnership plan described in subsection (g), the
215 administrative agent of the partnership may enter into cooperative agreements with the federal
216 government, the commonwealth, any political subdivision thereof, or with any organization or
217 person.

218 (5) The administrative agent of the partnership shall provide the partnership with such
219 staff and technical assistance considered appropriate to enable the implementation of the
220 partnership plan described in subsection (g). The administrative agent of the partnership may
221 accept the services of personnel detailed from the United States Forest Service, including any
222 branch or division of the United States Forest Service, the commonwealth, any political
223 subdivision of the commonwealth, any entity represented on the partnership board or any other

224 entity whose mission aligns with the purposes defined in subsection (b) , subject to the approval
225 of the partnership board.

226 (6) The administrative agent of the partnership may obtain by purchase, rental, donation,
227 or otherwise, such property, facilities, and services, including the acquisition of real property or
228 interest in real property, as may be needed to implement the partnership plan.

229 (g) (1) Within 3 years after the date of enactment of this act and receipt of sufficient
230 federal or state appropriations, the Mohawk Trail Woodlands Partnership shall develop a
231 partnership plan for the Mohawk Trail Woodlands Partnership Activities Area to be implemented
232 by the partnership. The plan titled, “Mohawk Trail Woodlands Partnership 2014-2015, A Plan
233 for Forest-Based Economic Development and Conservation” dated December 2015 (Updated
234 October 2016) shall serve as the interim partnership plan until such partnership plan is
235 developed.

236 (2) The partnership plan shall include but not be limited to each of the following:

237 (A) A resource assessment to include:

238 (i) an assessment of natural resources, including forest resources, agricultural resources,
239 water resources, important natural habitat areas, and important species;

240 (ii) an identification of conserved lands, including permanently conserved lands and
241 temporarily conserved lands; and

242 (iii) an assessment of recreational resources, including trails and associated recreational
243 support facilities.

244 (B) A socio-economic assessment of the participating municipalities, including
245 population, income and employment;

246 (C) A fiscal assessment of the municipalities in the Mohawk Trail Woodlands
247 Partnership Activities Area to include an assessment of municipal revenue, expenditures,
248 services and taxes;

249 (D) An assessment of existing programs and activities and associated entities, offered in
250 the Mohawk Trail Woodlands Partnership Activities Area including local, state, and federal
251 governmental units, nonprofit organizations and private interests that align with the purposes
252 defined in subsection (b);

253 (E) An identification of policies, programs and activities to achieve the purposes defined
254 in subsection (b), including those to:

255 (i) support and expand sustainable forest management in the Mohawk Trail Woodlands
256 Partnership Activities Area;

257 (ii) increase forest land conservation in the Mohawk Trail Woodlands Partnership
258 Activities Area;

259 (iii) support and increase forest and other natural resource based economic development
260 and employment, including natural resource-based tourism, in the Mohawk Trail Woodlands
261 Partnership Activities Area;

262 (iv) support educational and visitor information related to the Mohawk Trail Woodlands
263 Partnership Activities Area; and

264 (iv) support and promote the long term social and fiscal sustainability of the participating
265 municipalities in the Mohawk Trail Woodlands Partnership Activities area.

266 (F) A coordination and consistency component which details the ways in which
267 programs, activities and policies of local, state, and federal governmental units, nonprofit
268 organizations and private entities may best be coordinated to implement the partnership plan.

269 (G) A financial component, which details the costs and revenues of implementing the
270 partnership plan, including, but not limited to:

271 (i) costs to implement each of the programs and activities identified in clause (E);

272 (ii) associated capital costs;

273 (iii) associated operational costs, including costs of the administrative agent as defined in
274 subsection (f);

275 (iv) any anticipated extraordinary or continuing costs;

276 (v) details of the sources of revenue, including, but not limited to appropriations from
277 state and federal departments and agencies, investment or interest income, including receipts
278 from the Mohawk Trail Woodlands Partnership Fund described in subsection (h), grants,
279 donations, loans, loan repayments, receipts from the private sector, receipts from any income-
280 producing venture undertaken by the partnership, and other sources of revenue;

281 (vi) a 5 year timetable of projected revenues and expenditures; and

282 (vii) an identification of the projected revenue, including amounts and projected earnings
283 from the Mohawk Trail Woodlands Partnership Fund described in subsection (h), to ensure the
284 purposes of this section are sustained in perpetuity.

285 (3) In developing the partnership plan, the partnership shall:

286 (A) consult with appropriate officials of any local government or federal or state agency;

287 (B) consult with interested conservation, business, professional, and citizen
288 organizations; and

289 (C) conduct meetings for the purposes of providing interested persons with the
290 opportunity to comment on items contained in the partnership plan.

291 (4) The partnership board shall have authority to approve or disapprove the partnership
292 plan.

293 (5) The partnership board shall review the partnership plan, no less than annually. The
294 partnership plan shall be updated no less than every 10 years except that the partnership board
295 may by majority vote request the entire partnership plan or sections of the partnership plan be
296 updated at any time.

297 (h) (1) For the purposes of carrying out this section, the Mohawk Trail Woodlands
298 Partnership Fund established in section 2WWW of chapter 29 of the General Laws, may
299 accept and receive receipts and donations of funds from:

300 (i) any public or private source, including but not limited to gifts, grants, property,
301 supplies, revenue, or services from individuals, foundations, corporations, and other private or
302 public entities, including the commonwealth and agencies of the federal government;

303 (ii) federal appropriations if authorized by companion federal law, federal
304 reimbursements and grant-in-aid; and

305 (iii) interest and investment income earned from the Mohawk Trail Woodlands
306 Partnership Fund.

307 (2) Receipts into the Mohawk Trail Woodlands Partnership Fund may be invested to
308 generate income which may be utilized for any purpose consistent with the purposes of this act
309 and said section 2WWW of said chapter 29. Preference for investments of the Mohawk Trail
310 Woodlands Partnership Fund shall be given to those that advance the purposes set forth in
311 subsection (b).

312 (3) Funds from the Mohawk Trail Woodlands Partnership Fund shall be used as defined
313 in the Partnership Plan, as updated or amended and may include establishment of or support for
314 the following:

315 (i) An Investment Trust Fund to maintain the long term sustainability of the Mohawk
316 Trail Woodlands Partnership. A sufficient amount of funding shall be invested and maintained
317 in an Investment Trust Fund, as stated in the bylaws, to ensure the purposes of this section and
318 the activities of the partnership are sustained in perpetuity.

319 (ii) A multi-purpose center, known as the “Mohawk Trail Forestry Center” to provide
320 tourism services, technical assistance to forestry and tourism businesses and forest landowners,
321 research and development, marketing, public education and space for the Administrative Agent
322 as described in subsection (f);

323 (iii) One or more demonstration and research forests including those to be established
324 through agreement with the United States Forest Service or the executive office of energy and
325 environmental affairs and its agencies, or both the United States Forest Service or the executive
326 office of energy and environmental affairs, on an appropriate parcel of private, municipal or state
327 land to be used to research and demonstrate exemplary sustainable forest management to other
328 landowners and the public via tours, publications and other educational tools;

329 (iv) Forest land conservation via conservation restrictions and restriction monitoring with
330 landowners according to a model conservation restriction contained in the partnership plan
331 provided that boards of selectmen, in the case of a town, or the mayor, in the case of a city, in
332 participating municipalities where more than 40 per cent of the total land area of the municipality
333 is permanently protected open space must approve the purchase of a conservation restriction for
334 any land receiving funds from the Mohawk Trail Woodlands Partnership Fund;

335 (v) Revolving Loan Fund program to support forestry businesses;

336 (vi) Forest Viability Program with grants provided to forest based businesses or
337 landowners in exchange for temporary conservation restrictions on land development;

338 (vii) Municipal Cooperative Agreements that provide annual grants to participating
339 municipalities to support municipal services or operations related to the purposes of the
340 partnership as defined in subsection (b);

341 (viii) Forest management plans for private landowners;

342 (ix) Natural resource based recreation and tourism including promotion; and

343 (x) Reimbursement of costs incurred by the administrative agent, as defined in subsection
344 (f), to conduct activities related to the partnership.

345 (4) A qualified fund manager shall be selected by the partnership board to manage the
346 Investment Trust Fund, identified in section (h)(3)(i), according to appropriate standards to
347 achieve a rate of return consistent with the safety of the fund and with a preference for local and
348 regional investments that advance the purposes of the partnership set forth in subsection (b). The
349 fund manager shall prepare an annual report to the partnership board.

350 (5) There shall be an independent audit prepared annually for the Mohawk Trail
351 Woodlands Partnership Fund and associated Investment Trust Fund.

352 (6) Should the Mohawk Trail Woodlands Partnership cease to exist, the Mohawk Trail
353 Woodlands Partnership Fund and associated Investment Trust Fund shall be dissolved and assets
354 dispersed according to applicable state and federal law.

355 (i) No funds may be appropriated through this legislation for the United States
356 Government and its agency, the United States Forest Service to hold a fee interest in any real
357 property in the Mohawk Trail Woodlands Partnership Activities Area.

BERKSHIRE REGIONAL PLANNING COMMISSION
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NATHANIEL W. KARNS, A.I.C.P.
Executive Director

MEMORANDUM

TO: Delegates & Alternates, Berkshire Regional Planning Commission
FROM: Nathaniel W. Karns, AICP, Executive Director
DATE: July 21, 2017
SUBJ: Executive Director's Report

A number of items deserve mention:

A. Staff Changes at BRPC

We have lost Senior Transportation Planner Emily Lindsey to the “accompanying partner” problem as her boyfriend, despite trying, was unable to find suitable employment in his field in the area and she has relocated to Denver to work at the Denver Regional Council of Governments. We also as part of the new fiscal year have made some internal reorganizations to clarify responsibilities and chain of command. The modified organization chart is attached. Assistant Director Tom Matuszko directly leads Community Planning efforts, and the Public Health Program Manager, Laura Kittross, and Environmental & Energy Program Manager, Melissa Provencher, report directly to him. The Transportation Program Manager, Cleto Kus, Community & Economic Development Program Manager, Pat Mullins, GIS, IT, and Data Program Manager, Mark Maloy, and Office Manager, Marianne Sniezek report directly to me, as does Tom as Assistant Director. Senior Planner Eammon Coughlin has moved over as Senior Transportation Planner, replacing Emily Lindsey. We are currently recruiting for a Senior Planner with a focus on zoning, land use and community planning and a new Transportation Planner.

B. Ridership Survey for Berkshire Regional Transit Authority

Given the high level of interest in improving public transportation in the Berkshires, the BRTA is doing an on-line ridership survey which may be found at <https://www.surveymonkey.com/r/YYLJ6T9>. Please share this in your communities and with as many people as possible.

C. Status of District Local Technical Assistance, Community Compact, and Efficiency and Regionalization Programs in the FY 2018 State Budget

I am very pleased to report that DLTA was level funded at \$2.8 million and Community Compact and Efficiency and Regionalization at \$2.0 million each in the final state budget which was signed by the Governor. This was as he had requested and the House supported, with the Senate again not funding it but the Conference Committee did finally support the full amounts. Given the revenue issues in this year's budget, we feel very lucky that these programs were deemed worthy of continued support and thank Senator Hinds and Representatives Pignatelli, Marks, and Farley-Bouvier (as well as the late Representative Cariddi) for their strong support during the process. And thanks to our local officials and delegates and alternates who also voiced support directly to the delegation and the budget conference committee members.

D. New Planning Member Training – 6:30 p.m., Thursday, July 27th, 3rd Floor Conference Room at BRPC

The annual training aimed at new planning and zoning board members is occurring the same evening as the BRPC meeting, but will start at 6:30 in the upstairs conference room. The training notice is attached. Register at <https://board-member-training.eventbrite.com> by July 25th.

E. Recreational Marijuana Workshop for Municipal Officials – (tentatively Thursday, August 31st, Lenox Town Hall

With the passage of the new recreational marijuana legislation last week, and the pending action by Governor Baker on it, the clock is going to be moving fast for local actions on this topic and for at least one purpose, your community should already have this on your agenda. We are working hard to organize a workshop for local officials as quickly as possible. Tentatively we hope to hold the workshop on Thursday evening, August 31st at Lenox Town Hall. Please pencil that in on your calendars and we will get definitive information out as soon as possible on the workshop. Assistant Director Tom Matuszko is taking the lead in our office and can be contacted at tmatuszko@berkshireplanning.org or 442-1521, ext. 34.

F. Nominations for 2017 Charles Kusik Award

Nominations are due for the annual Charles Kusik Award which is to be presented at our 2017 Annual Meeting, scheduled for Thursday, October 19th. Nominations are due no later than September 1st so that the Executive Committee can discuss them at its September meeting. A copy of the nomination form is attached.

G. Special Berkshire Transportation Studies in FY 2018 State Budget

As you may have seen reported in the news media, the final FY 2018 State budget contains two directives to MassDOT for transportation studies over the coming several months. Representative Pignatelli was successful in directing MassDOT to study the possibility of creating an interchange between Lee and Westfield on the MassPike (presumably in Becket, Otis or Blandford) and Senator Hinds was successful in directing MassDOT to study the possibility of establishing seasonal train service between Pittsfield and New York City. We will be discussing these with MassDOT staff in the coming couple of weeks and they will be an agenda item for the next MPO meeting (probably in September). The turnpike interchange would also require involvement by the Pioneer Valley Planning Commission as Blandford is within their transportation planning jurisdiction. For further information, contact Transportation Program Manager Clete Kus at ckus@berkshireplanning.org or 442-1521, ext. 20.

H. EPA Brownfields Assessment Program Awards in the Berkshires

We are very pleased to announce that BRPC was very successful again in the strong competition for EPA brownfields assessment funds, with a region-wide grant of \$300,000 and grants to Great Barrington and North Adams of \$300,000 each. These are 1% of the total number of grants awarded nation-wide and represent 1.6% of the funding nationwide. This is the second year in a row that BRPC has had direct responsibility for 3 grants. Environmental & Energy Program Manager Melissa Provencher deserves almost all the credit for this success. For information on BRPC's Brownfields Program, contact Melissa at mprovencher@berkshireplanning.org or 442-1521, ext. 22.

I. Municipal Hazard Mitigation Program Awards in the Berkshires

BRPC will be working with Adams, Dalton, Hinsdale and Sheffield on updating their Natural Disaster Hazard Mitigation Plans, with funding from the Federal Emergency Management Agency to the towns. Having an up-to-date Hazard Mitigation Plan is a prerequisite for some FEMA grant programs. The project manager will be Senior Planner Lauren Gaherty. For information on this program, contact Lauren at 442-1521, ext. 35 or at lgaherty@berkshireplanning.org.

J. Municipal Vulnerability Preparedness (MVP) Program Awards in Berkshires

Four Berkshire municipalities were awarded these grant funds, from a new state program, to help them identify and prepare for climate change impacts which can be expected. The four towns are Adams, Lanesborough, Monterey and Williamstown. Senior Planner Lauren Gaherty prepared all but Monterey's application and will be working with at least Adams and Lanesborough in identifying their climate change vulnerabilities and developing strategies to overcome them. For information on this program, contact Lauren at 442-1521, ext. 35 or at lgaherty@berkshireplanning.org.

K. 2017 Community Development Block Grant Awards in Berkshires

Congratulations to Adams, Becket, Monterey and North Adams on their successful applications for CDBG funding in the 2017 round. BRPC staff developed the Becket application, working closely with Town officials, especially Town Administrator Ed Gibson. The work will focus on housing rehabilitation. It is not too soon, if your community has an interest in this grant program, to begin work on developing a competitive application for 2018! For further information on the CDBG program or the applications, contact Community & Economic Development Program Manager Pat Mullins at pmullins@berkshireplanning.org or 442-1521, ext. 17.

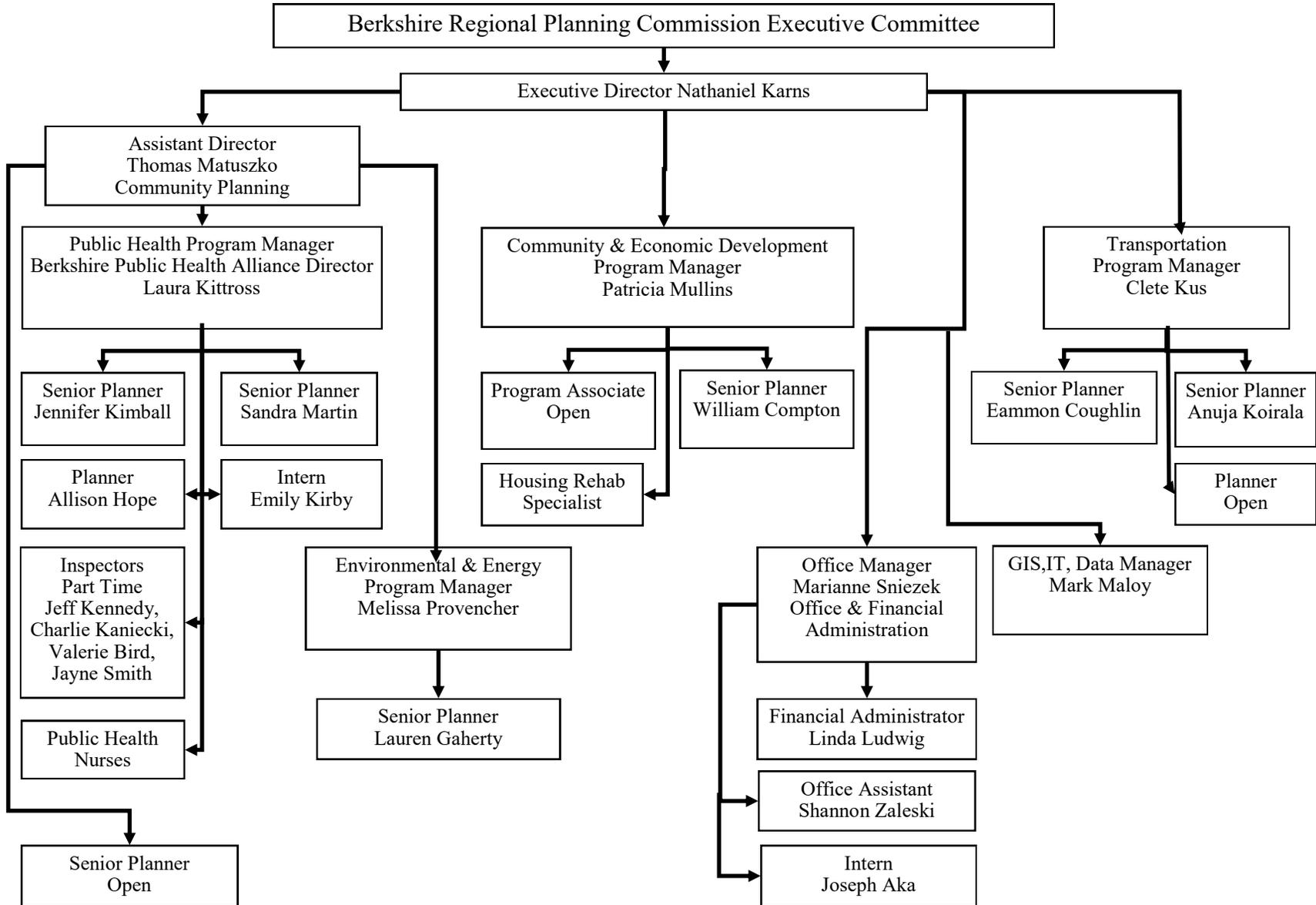
Attachments (3):

BRPC Organizational Chart July 2017

New Planning Board and Zoning Board of Appeals Member Training

Nomination Form – Charles Kusik Award for Outstanding Contributions to Planning

Berkshire Regional Planning Commission Organizational Chart July 2017



New Planning Board and Zoning Board of Appeals Member Training



July 27, 2017

6:30 –8:30 PM

Are you a recently elected planning board or zoning board of appeals member, or an experienced member seeking to expand your knowledge about the intricacies of Massachusetts land use law?

If so, this is the training for you!

Experienced land use attorney Paul Bobrowski will review the duties of board members, the required procedures, and the relevant laws (Zoning Act, Subdivision Control Law). Paul will also have the answers to all your burning land use questions.

A light dinner and refreshments will be provided.

This FREE Training will be held at:

**Berkshire Regional Planning
Commission**
3d Floor Conference Room
1 Fenn Street,
Pittsfield, MA 01201

With questions, please contact:

Bill Compton
413-442-1521 ext. 14
wcompton@berkshireplanning.org

Please use the link below to register by July 25, 2017:

<https://board-member-training.eventbrite.com/>



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

NOMINATION FORM

**Charles Kusik Award for Outstanding Contributions
to Planning in Berkshire County**

The Charles Kusik Award was instituted to recognize projects, groups, or individuals who have made outstanding contributions to planning in Berkshire County. Employees, Delegates and Alternates to the Berkshire Regional Planning Commission are not eligible for the award.

I nominate the following for the Charles Kusik Award:

I believe that this project, group, or individual deserves the award because:

Please return to: Executive Committee, BRPC, 1 Fenn Street, Ste. 201, Pittsfield, MA 01201
Fax Number: 413-442-1523
E-mail: nkarns@berkshireplanning.org

Nominations must be received no later than September 1, 2017.