

Mark Pruhenski  
Town Manager

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Great Barrington, MA 01230

Telephone: (413) 528-1619 x2900  
Fax: (413) 528-2290

## TOWN OF GREAT BARRINGTON MASSACHUSETTS

### OFFICE OF THE TOWN MANAGER

Selectboard Meeting via Zoom and in person at 334 Main Street  
Great Barrington MA Order of Agenda for Monday January 22,  
2024, at 6:00 PM

Please click the link below to join  
the webinar:

[https://us02web.zoom.us/j/860487  
27526](https://us02web.zoom.us/j/86048727526)

Webinar ID: 860 4872 7526  
Dial-in, audio-only: (929) 205 6099

Pursuant to Governor Baker's March 12, 2020 Order Suspending Certain Provisions of the Open Meeting Law, G.L. c. 30A, §18, and Governor Healey's March 29, 2023 Revised Order extending remote participation by all members in any meeting of a public body, this meeting of the Selectboard will be conducted both in-person and via remote participation to the greatest extent possible. Specific information and the general guidelines for remote participation by members of the public and/or parties with a right and/or requirement to attend this meeting can be found on town's website, at [www.townofgb.org](http://www.townofgb.org). For this meeting, members of the public and committee members may attend the meeting in person, or, for those who wish to do so remotely may by following the instructions at the top of this agenda. For those who are not in-person every effort will be made to ensure that the public can adequately access the proceedings in real time, via technological means.

1. CALL TO ORDER SELECTBOARD REGULAR MEETING
2. APPROVAL OF MINUTES
  - a. Selectboard and Board of Health Joint Meeting – December 7<sup>th</sup>, 2023
  - b. Selectboard Meeting – December 12<sup>th</sup>, 2023
  - c. Selectboard Meeting Executive Session – November 6<sup>th</sup>, 2023
3. SELECTBOARD'S ANNOUNCEMENTS/STATEMENTS
4. TOWN MANAGER'S REPORT
  - a. Housatonic Water Works
  - b. Fiscal Year 2025 Budget Season
5. LICENSES AND PERMITS
6. PUBLIC HEARINGS

- a. Pole petition, work order number #30851677. Request to install 1 SO pole on Pleasant Street beginning at a point approximately 130 feet east of the centerline of the intersection of Highland Street and continuing approximately 60 feet in a South-West direction. National Grid requesting to install (1) utility pole within public right-of-way. New utility is at the request of the Town and will provide electric service for a park in Housatonic. Also for permission to lay and maintain underground laterals, cables, and wires in the above or intersecting public ways for the purpose of making connections with such poles and buildings as each of said petitioners may desire for distributing purposes.
  - i. Open Public Hearing
  - ii. Explanation of the Project
  - iii. Public comments, speak in favor or opposition
  - iv. Questions from the Selectboard
  - v. Comments from other Boards
  - vi. Close Public Hearing
  - vii. Selectboard discussion
  - viii. Motion to continue/deny/grant

#### 7. PREVIOUS BUSINESS

#### 8. NEW BUSINESS

- a. W.E.B. Du Bois Legacy Committee- 2024 Festival Update
- b. W.E.B. Du Bois Legacy Committee- Committee appointments
- c. Vote to submit a 2024 District Local Technical Assistance application to the Berkshire Regional Planning Commission
- d. Letter of request from Todd & Weld LLP for an independent investigation into the December 8<sup>th</sup>, 2023 complaint and response by the Great Barrington Police Department
- e. Annual Town Manager Performance Evaluation - discuss timeline/process
- f. FY2025 Budget Policy

#### 9. CITIZEN SPEAK TIME

*Citizen Speak Time is an opportunity for the Selectboard to listen to residents. Topics of particular concern or importance may be placed on a future agenda for discussion. This time is reserved for town residents only unless otherwise permitted by the chair, and speakers are limited to 3 minutes each.*

#### 10. SELECTBOARD'S TIME

#### 11. MEDIA TIME

#### 12. CONVENE INTO EXECUTIVE SESSION (and not return to open session)

- a. Executive Session under MGL Ch. 30A, sec. 21(a) for the following purpose: (3) To discuss strategy with respect to

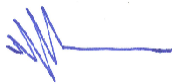
litigation, regarding Housatonic Water Works. And, (6) To consider the purchase, exchange, lease or value of real estate, regarding Housatonic Water Works.

- i. Motion: Move that the Board meet in executive session pursuant to MGL Ch. 30A sec. 21(a) for the following purpose: (3) To discuss strategy with respect to Housatonic Water Works because an open discussion may have a detrimental effect on the litigation position of the Board. And, (6) to consider the purchase, exchange, lease or value of real estate, regarding Housatonic Water Works because an open discussion may have a detrimental effect on the negotiating position of the public body, and not to return to open session
- ii. Roll Call Vote
- b. Executive Session under MGL Ch. 30A, sec. 21 (a) for the following purpose: (7) To comply with, or act under the authority of, any general or special law or federal grant-in- aid requirements.
  - i. Motion: Move that the Board meet in executive session pursuant to MGL Ch. 30A sec. 21 to approve executive session minutes from the following meetings:
    - February 12<sup>th</sup>, 2024.
  - ii. Roll Call Vote

### 13. ADJOURNMENT

#### NEXT SELECTBOARD MEETING

February 12, 2024 February 26, 2024 March 11, 2024 March 25, 2024 April 8, 2024



Mark Pruhenski, Town Manager

*Pursuant to MGL. 7c. 30A sec. 20 (f), after notifying the chair of the public body, any person may make a video or audio recording of an open session of a meeting of a public body, or may transmit the meeting through any medium. At the beginning of the meeting, the chair shall inform other attendees of any such recordings. Any member of the public wishing to speak at the meeting must receive permission of the chair. The listings of agenda items are those reasonably anticipated by the chair, which may be discussed at the meeting. Not all items listed may in fact be discussed and other items not listed may be brought up for discussion to the extent permitted by law.*

## FY2025 Budget Meeting Schedule

### Tuesday, February 6, 2024 6:00pm

Budget Overview  
Selectboard/Town Manager  
Finance Committee/Reserve Fund  
Town Accountant  
Technology  
Assessors' Office  
Collector/Treasurer  
Human Resources  
Town Clerk  
Building Inspectors  
Health Department  
Debt Service  
Retirement  
Insurance

### Wednesday, February 7, 2024 6:00pm

Conservation Commission  
Planning Board  
Zoning Board of Appeals  
Planning/Community Development  
Buildings and Grounds  
Highway  
Council on Aging  
Libraries  
Parks and Recreation  
Wastewater  
Capital

### Tuesday, February 13, 2024 6:00pm

Police Department  
Fire Department  
Emergency Management  
Animal Control  
Community Services  
Veterans' Affairs  
Boards and Commissions  
Celebrations & Events  
Special Articles

### Wednesday, February 14, 2024 6:00pm

Review and Discussion

### Wednesday, February 28, 2024 6:00pm

Public Hearing

September 27, 2023

Questions contact – Steven Hayward – (413)528-7018

### ORDER FOR POLE AND WIRE LOCATIONS

In the Town of Great Barrington, Massachusetts

Notice having been given and public hearing held, as provided by law,  
IT IS HEREBY ORDERED: that Massachusetts Electric Company d/b/a NATIONAL GRID and  
be and it is hereby granted a location for and permission to erect and maintain poles and wires to  
be placed thereon, together with such sustaining and protecting fixtures as said Company may  
deem necessary, in the public way or ways hereinafter referred to, as requested in petition of said  
Company dated the 18th day of September, 2023.

All construction under this order shall be in accordance with the following conditions:

Poles shall be of sound timber, and reasonable straight, and shall be set substantially at the  
points indicated upon the plan marked – Pleasant Street - Great Barrington, Massachusetts.

**No.# 30851677**

Filed with this order:

There may be attached to said poles such wires, cables, and fixtures as needed in their business and  
all of said wires and cables shall be placed at a height of not less than twenty (20) feet from the  
ground.

The following are the public ways or part of ways along which the poles above referred to  
may be erected, and the number of poles which may be erected thereon under this order:

Pleasant Street - National Grid to install 1 SO pole on Pleasant Street beginning at a point  
approximately 130 feet East of the centerline of the intersection of Highland Street and continuing  
approximately 60 feet in a South-West direction. National Grid requesting to install (1) utility pole  
within public right-of-way. New utility is at the request of the town and will provide electric  
service for a park in Housatonic.

I hereby certify that the foregoing order was adopted at a meeting of the \_\_\_\_\_ of the  
City/Town of \_\_\_\_\_, Massachusetts held on the \_\_\_\_\_ day of \_\_\_\_\_ 20 \_\_\_\_.

\_\_\_\_\_  
Massachusetts City/Town Clerk.  
20 \_\_\_\_.

Received and entered in the records of location orders of the City/Town of \_\_\_\_\_

Book

Page

Attest:

City/Town Clerk

I hereby certify that on  
at

20 , at o'clock, M  
a public hearing was held on the petition of

Massachusetts Electric Company d/b/a NATIONAL GRID for permission to erect the poles, wires, and fixtures described in the order herewith recorded, and that we mailed at least seven days before said hearing a written notice of the time and place of said hearing to each of the owners of real estate (as determined by the last preceding assessment for taxation) along the ways or parts of ways upon which the Company is permitted to erect poles, wires, and fixtures under said order. And that thereupon said order was duly adopted.

City/Town Clerk.

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.....  
.....

Board or Council of Town or City, Massachusetts

#### CERTIFICATE

I hereby certify that the foregoing is a true copy of the location order and certificate of hearing with notice adopted by the of the City of Massachusetts, on the day of 20 , and recorded with the records of location orders of the said City, Book , Page . This certified copy is made under the provisions of Chapter 166 of General Laws and any additions thereto or amendments thereof.

Attest:

City/Town Clerk

Questions contact – Steve Hayward 413-528-7018

## PETITION FOR POLE AND WIRE LOCATIONS

To the Board of Selectmen  
Of Great Barrington, Massachusetts

Massachusetts Electric Company d/b/a NATIONAL GRID requests permission to locate poles, wires, and fixtures, including the necessary sustaining and protecting fixtures, along and across the following public way:

Pleasant Street - National Grid to install 1 SO pole on Pleasant Street beginning at a point approximately 130 feet East of the centerline of the intersection of Highland Street and continuing approximately 60 feet in a South-West direction. National Grid requesting to install (1) utility pole within public right-of-way. New utility is at the request of the town and will provide electric service for a park in Housatonic.

Location approximately as shown on plan attached.

Wherefore it prays that after due notice and hearing as provided by law, it be granted a location for and permission to erect and maintain poles and wires, together with such sustaining and protecting fixtures as it may find necessary, said poles to be erected substantially in accordance with the plan filed herewith marked – Pleasant Street - Great Barrington, Massachusetts.

**No.# 30851677**

Also, for permission to lay and maintain underground laterals, cables, and wires in the above or intersecting public ways for the purpose of making connections with such poles and buildings as each of said petitioners may desire for distributing purposes.

Your petitioner agrees to reserve space for one cross-arm at a suitable point on each of said poles for the fire, police, telephone, and telegraph signal wires belonging to the municipality and used by it exclusively for municipal purposes.

Massachusetts Electric Company d/b/a  
NATIONAL GRID *James Kehrer*  
BY \_\_\_\_\_  
Engineering Department

## NOTICE TO ABUTTERS

National Grid is requesting permission from the Great Barrington Selectboard to locate poles, wires, and fixtures, including the necessary sustaining and protecting fixtures, along and across the following public way:

Pleasant Street (30851677):

National Grid to install 1 SO pole on Pleasant Street beginning at a point approximately 130 feet East of the centerline of the intersection of Highland Street and continuing approximately 60 feet in a South-West direction. National Grid requesting to install 1 utility pole within public right-of-way. New utility is at the request of the town and will provide electric service for a park in Housatonic.

Location approximately as shown on attached plan.

Wherefore it prays that after due notice and hearings as provided by law, it be granted a location for and permission to erect and maintain poles and wires, together with such sustaining and protecting fixtures as it may find necessary, said poles to be erected substantially in accordance with the plan filed herewith marked – Seekonk Road – Great Barrington Massachusetts.

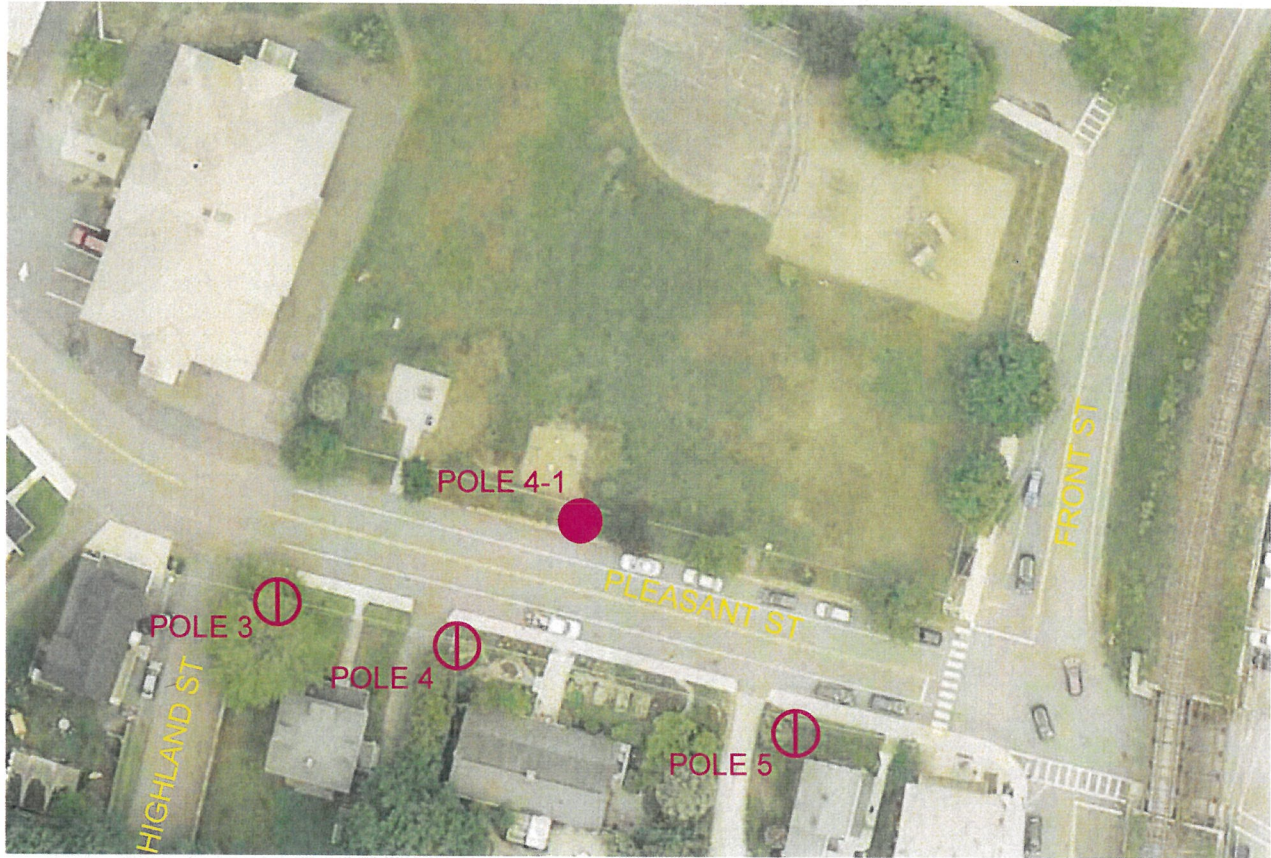
In accordance with the provisions of Section 22, Chapter 166, of the General Laws, you are hereby notified that a public meeting will be held via zoom and in person at Great Barrington Town Hall (access information will be available at the town website: [www.townofgb.org](http://www.townofgb.org)), at 6:00 P.M., on the 22<sup>nd</sup> day of January 2024, on the petition of National Grid to erect poles and wires upon, along, under, or across one or more public ways in the town of Great Barrington abutting upon property owned by you.



### Exhibit A – Not to Scale

The exact location of said Facilities to be established by and upon the installation and erection of the Facilities thereof.

National Grid requesting to install (1) utility pole within public right-of-way. New utility pole is at the request of the town and will provide electric service for park in Housatonic.



POLE PETITION		nationalgrid	
<b>LEGEND:</b>		Date: 18 Sep 2023	
	Proposed NGRID Pole Locations	Plan Number: 30851677	
	Existing NGRID Pole Locations	To Accompany Petition Dated:	
	Proposed J.O. Pole Locations	To The TOWN of GREAT BARRINGTON	
	Existing J.O. Pole Locations	For Proposed: SO Pole: 4-1 Location: SIDE OF ROAD	
	Existing J.O. Pole to be Replaced	Date of Original Grant:	
	Existing NGRID Pole to be Made J.O.		
	Existing Pole Locations to be Removed		
Drawn By: Steven Hayward			
DRAWING NOT TO SCALE. DISTANCES ARE APPROXIMATE.			



## EXECUTIVE SUMMARY

**TITLE:** Application to the Berkshire Regional Planning Commission (BRPC) for District Local Technical Assistance (DLTA) grants

**BACKGROUND:** The BRPC receives funds from the state each year to provide technical assistance to communities on eligible projects. Communities do not receive the funds directly; rather, BPRC receives the funding and their staff then assists the Town with the work, providing the time and/or expertise that the Town does not have. Some examples of past DLTA projects in Great Barrington include a the 40R Smart Growth Overlay District, a Housing Needs Study, zoning review in Housatonic, Master Plan technical assistance including development sites. Proposals are simple one-page narratives.

This year Great Barrington will seek DLTA for assistance to update the Open Space and Recreation Plan. The previous OSRP expired in 2018, and update efforts in 2019-2020 stalled with the onset of COVID. An updated OSRP is important as it allows the Town the ability to apply for State grant funding for parks improvements and open space projects.

This project involves public meetings, stakeholder meetings, GIS mapping, and data review. The Planning Dept will provide assistance as well.

The application must be signed by the Chief Elected Official of the Town.

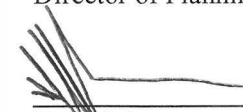
**FISCAL IMPACT:** None

**RECOMMENDATION:** Authorize the Chairman to sign the DLTA application.

**WRITTEN BY:**

 **DATE:** 1/17/24  
Assistant Town Manager /  
Director of Planning and Community Development

**APPROVED BY:**

 **DATE:** 1/18/24  
Town Manager



# BRPC

Berkshire Regional Planning Commission

## Request for Technical Assistance District Local Technical Assistance Program 2024

### **PART 1. APPLICANT INFORMATION**

**Lead Municipality:** Town of Great Barrington **Date:** 1-26-2024

**Point of Contact, Lead Municipality, as designated by the governing body (please print):**

**Name:** Christopher Rembold

**Title:** Assistant Town Manager / Director of Planning & Community Development

**Address:** 334 Main Street, Great Barrington, MA 01230

**Telephone:** 413-528-1619 x. 2401 **E-mail:** crembold@townofgb.org

**Partner Municipalities: (List all partner municipalities, contacts and contact information (email and phone) from those municipalities:**

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**Does your Municipality have a current signed Community Compact Cabinet Agreement?**

☐ Yes

☒ No

**If yes, for what Best Practice** \_\_\_\_\_

**Has your Municipality received or is it seeking Housing Choice Initiative designation?**

☒ Yes

☐ No

### **PART 2. TYPE OF ASSISTANCE**

Please check the type of assistance requested:

☐ Housing Choice Initiative

☐ Implements a Communities' Signed Community Compact Cabinet Best Practice

☒ Community Compact Cabinet Activities

☐ Planning Ahead for Housing

☐ Planning Ahead for Growth

### **PART 3. ASSISTANCE PROPOSAL**

Please attach a brief (one-page) summary of the project that addresses the following topics **or use the form at the end of this document:**

1. **Purpose:** Provide a concise statement of the purpose and type of assistance requested.

2. **Priority Funding Areas:** Provide a concise description of how your assistance request addresses one of the priority funding areas. If your request is to adopt or implement a signed Community Compact best practice, please identify that best practice. If you request Housing Choice Initiative designation, please describe how your community intends to obtain that designation.
3. **Project Background:** Briefly describe how the proposed project fits with other municipal objectives, such as implementing activities outlined in a master plan or other planning document. If applicable, please describe any related projects recently completed or currently underway that directly relate to the proposed project. Please also note any planned action or investment that would or could potentially result from the successful completion of the proposed action.
4. **Project Scope & Timeline:** Please list and provide a short description of the major tasks and anticipated timeline to achieve the proposed project, including the anticipated starting date.
5. **Desired Results:** Please describe the desired results (deliverables or products) as an outcome of this project.
6. **Local Official/Staff Commitment:** Please describe the municipal officials/committee members/staff members who will be involved with this project, clearly identifying their roles.
7. **Local Match:** Please identify any voluntary in-kind or cash match (no match required).

#### **PART 4. APPLICATION SUBMITTAL PROCESS**

Applications are due by 5:00 pm **Friday, January 26, 2024.**

A fillable application is in the News and Announcements section of the BRPC website,  
[BRPC - Berkshire Regional Planning Commission \(berkshireplanning.org\)](https://www.berkshireplanning.org)

#### **IMPORTANT:**

***Application packets must be sent via email only to:***

Cornelius Hoss, Community Planning Program Manager  
[choss@berkshireplanning.org](mailto:choss@berkshireplanning.org)  
Tel (413) 442-1521 x44

Please feel free to reach out to Cornelius Hoss with any questions or to discuss potential projects prior to submission. Please note that any awards made under this solicitation are contingent on the continuing availability of funds provided to BRPC from the Commonwealth of Massachusetts.

#### **PART 5. AUTHORIZED SIGNATURE**

Please include the signature of the Chief Elected Official authorizing you to submit this request.

Name Stephen Bannon Date 1/26/2024

Title Chairperson, Selectboard

Signature \_\_\_\_\_  
(MAYOR/SELECT BOARD CHAIR)

1. **Purpose:** The Town of Great Barrington seeks 2024 DLTA assistance to undertake an update of its Open Space and Recreation Plan (OSRP).
2. **Priority Funding Area:** This project fits into the “Sustainable Development and Land Protection” area of the Community Compact. This is also a “Planning Ahead for Growth” strategy, as it is an update of a section of a municipal master plan which informs the Town’s growth and development.
3. **Project Background:** The Town’s 2013 OSRP expired in 2018. With the assistance of DLTA in 2018, BRPC provided new maps and updated local demographic and land use data for use in an updated plan. In 2019, the Town created an Open Space and Recreation Plan task force to guide the update of the OSRP and to engage the public in the planning process. The task force created and launched an online public survey, and convened a community meeting on January 30, 2020. This meeting and the survey results were intended to help the task force craft an open space and recreation vision, a set of land conservation and recreation needs, and a priority list of land conservation and recreation actions. Unfortunately, the COVID-19 emergency that started in March 2020 shifted the Town’s priorities away from completion of this project until now.

The Town would like to turn back to this effort, and the Selectboard has voted that the OSRP update is its strategic priorities for this year. Beginning the OSRP update now will also enable us to incorporate the findings of the Town’s 2021-2026 Hazard Mitigation and Climate Change Plan, our 2022, 2023, and 2024 MVP action grants, our 2022 agricultural planning grant (Growing Better Great Barrington), our 2021-2022 Parks Asset Management and mapping project. We will also be able to update demographic information using most recent Census data, and to update our maps of conserved land.

4. **Project Scope & Timeline:** The project would be an OSRP update, utilizing the existing OSRP and the Commonwealth’s “Open Space and Recreation Plan Requirements.” This guidebook will be used to determine which elements need to be updated and how much public participation is needed. The Town will identify stakeholders and convene stakeholders into a committee or working group, and coordinate public meetings including venues. The Town seeks BRPC assistance to: (1) update, administer and analyze a survey (online and in print) to identify open space protection and recreation assets, needs, and prioritizing actions; (2) assist in presenting existing conditions maps and data at public meetings, including preparation of slide shows, maps, and presentation materials; and (3) assist in finalizing the OSRP for submittal to Mass DCR for approval. We seek to begin work as soon as possible.
5. **Desired Results:** Final Draft OSRP.
6. **Local Official/Staff Commitment:** The Assistant Town Manager / Director of Planning and Community Development will be the principal contract administrator for this DLTA, receiving deliverables, assisting in drafting text, convening stakeholders, and will help coordinate meetings. The Town will assist with translation of surveys and materials as well. Local boards will also be involved.
7. **Local Match:** The Town will provide an in-kind match of the staff time.



**Todd & Weld** LLP

Howard M. Cooper  
hcooper@toddweld.com

January 5, 2024

**VIA EMAIL AND FIRST-CLASS MAIL**

Mr. Stephen Bannon  
Chairman of the Selectboard  
334 Main Street  
Great Barrington, MA 01230

Dr. Peter Dillon  
Superintendent of Schools  
Berkshire Hills Regional School District  
P.O. Box 617, 50 Main Street  
Stockbridge, MA 01262

**Re:** [REDACTED]

Dear Chair Bannon and Dr. Dillon:

We represent [REDACTED] in connection with her legal claims arising from the recent violation of her secured rights under both federal and state law.

We are writing to you even as we continue to investigate the events of December 8, 2023 and thereafter to request that the Great Barrington Selectboard and Berkshire Hills Regional School District *immediately* undertake an independent investigation into the events at issue including, without limitation, determining how and by whom a criminal complaint was initiated against our client and how each step of the decision-making which took place thereafter was made. We have no doubt that you recognize the urgency of this request as it relates to [REDACTED] safety and the need to put in place best practices so that nothing like what occurred here happens again.

The events which took place on December 8, 2023 relating to the criminal investigation of [REDACTED] and the school's decision to allow a Great Barrington Police Department ("GBPD") officer to enter [REDACTED] classroom and interrogate her regarding the location and content of a book, are deeply concerning. Among other things, these actions raise numerous and serious legal issues with regard to the lack of any reasonable suspicion, let alone probable cause, to interrogate our client, the alleged lack of identifying information about the complainant based upon whose word a criminal investigation was opened, the GBPD's failure to have the alleged complainant follow available and well-established procedures to challenge a book in a school setting and the clear discrimination against [REDACTED] based upon her sexual orientation.



**Todd & Weld** LLP

Mr. Stephen Bannon  
Dr. Peter Dillon  
January 5, 2024  
Page 2 of 2

I attach and enclose a letter already sent by the ACLUM and GLAD sent to the GBPD and the Great Barrington District Attorney's Office which addresses additional concerns.

We ask that you respond to us as soon as reasonably possible about our request for an independent investigation.

Please understand that this letter is sent with a full reservation of our client's rights.

Very truly yours,

Howard M. Cooper

Enclosure

cc:

Maria T. Davis, Esq.  
Shayne Lotito, Esq.



December 29, 2023

**By Email**

Timothy J. Shugrue  
District Attorney for Berkshire County  
7 North Street  
Pittsfield, MA 01201  
[Contact.BerkshireDA@mass.gov](mailto:Contact.BerkshireDA@mass.gov)

Paul E. Storti  
Chief of Police  
465 Main Street  
Great Barrington, MA 01230  
[pstorti@townofgb.org](mailto:pstorti@townofgb.org)

Re: Law Enforcement Search for and Investigation of Book at W.E.B.  
Du Bois Middle School

Dear District Attorney Shugrue and Chief Storti:

We write on behalf of the American Civil Liberties Union of Massachusetts, Inc. ("ACLUM") and GLBTQ Legal Advocates & Defenders ("GLAD") to express deep concern about your offices' responses to a complaint about a book in a classroom at the W.E.B. Du Bois Regional Middle School in Great Barrington in which the complainant purportedly described the book as containing "pornography."

While we are gratified to see that Chief Storti has reportedly said in an on-line post that he "apologize[s] to anyone who was negatively affected" by this unprecedented law enforcement action, we remain concerned that there has been no acknowledgement that what occurred was unwarranted and unauthorized by law. Instead, in public statements and media reports, your offices have asserted that they had an obligation and no choice but to take criminal investigatory steps in response to this complaint. In your statements, you seem to be defending the fact that a police officer went to the school, visited a teacher's classroom, questioned the teacher, looked for the book and possibly even suggested a search of the entire school might be

appropriate—as well as the fact that a criminal investigation was opened by the District Attorney’s office when the matter was referred by the police.

Contrary to your defenses of what occurred, under the laws of the Commonwealth, discussed below, no criminal investigation was warranted. Instead, your offices should have advised the complainant to raise their concerns with the school.

We ask that you take immediate steps to instruct your staffs—and inform the public—that law enforcement responses to concerns about books in schools and other educational programs are not appropriate and should not and will not happen again. Failure to take affirmative and prompt action could mislead law enforcement elsewhere in the Commonwealth into thinking such action is lawful—when it is not—and will leave unredressed the chilling effect of your offices’ actions on the constitutionally protected rights of students in the Commonwealth to receive (and of educators to share) information without unwarranted censorship, to enjoy an educational environment free of discrimination based on gender, and to freely exercise their rights without threats, intimidation or coercion from law enforcement.<sup>1</sup>

### **Controlling Statutory Provisions**

Massachusetts Gen. Laws c. 272, § 31 defines unlawful “obscenity” as material “*taken as a whole*” that “(1) appeals to the prurient interest of the average person applying the contemporary standards of the county where the [alleged] offense was committed; (2) depicts or describes sexual conduct in a patently offensive way; *and* (3) *lacks serious literary, artistic, political or scientific value.*” (emphases added).

The statute defines material that is “harmful to minors” as either material qualifying as obscenity or material that “if *taken as a whole*, [ ] (1) describes or represents nudity, sexual conduct or sexual excitement so as to appeal *predominantly* to the prurient interest of minors; (2) is *patently* contrary to prevailing standards of adults in the county where the [alleged] offense was committed as to suitable material for such minors; and (3) *lacks serious literary, artistic, political or scientific value for minors.*” (emphases supplied).

Strict adherence to these statutory boundaries is necessary to “limit[ ] the reach of the statute to material outside the First Amendment’s protection with respect to minors.” *Commonwealth v. Mienkowski*, 91 Mass. App. Ct. 668, 674 (2017).

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<sup>1</sup> An open letter we previously sent to school officials throughout the Commonwealth with regard to calls to remove book from schools sets forth the details of the laws through which these rights are established and is available [here](#). We also direct your attention to the Massachusetts Civil Rights Act, which prevents interference or attempted interference with secured rights by threats, intimidation or coercion. Mass. Gen. L. c. 12, §§ 11H and I.

Under these definitions, the book at the heart of the complaint clearly does not qualify as obscene, pornographic, or material harmful to minors, due, among other things, to the literary value of the award-winning, coming-of-age book at issue, which a simple on-line search would have revealed. Such literature can be vital for young people who are coming of age and may benefit from seeing themselves and others they know represented. But, regardless, the Legislature has specified its intent that law enforcement in Massachusetts has no role in policing materials made available by schools, teachers or school librarians.

Specifically, the law provides an absolute defense to any charges of distributing obscene or allegedly harmful material to minors where the accused is “a bona fide school, museum or library, or was acting in the course of employment as an employee of such organization ...” Mass. Gen. L. c. 272, §§ 28 and 29 (emphasis added).

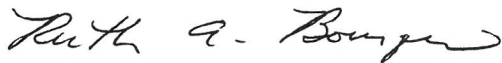
By enacting this language, the Legislature clearly established that law enforcement has no role in enforcing these statutes as to any materials provided by schools or other educational programs and their personnel acting in the scope of their employment.

### Conclusion

In light of the above, we ask that you take immediate steps to make clear to your employees, the schools, and the larger community that you recognize law enforcement had no role here and that an incident like this will not happen again.

Although we will likely be in contact again after we finish review of the public records we recently received in response to our request to the Police Department, we write now because prompt action is required to remove the unlawful chilling effect that has been created by your offices with regard to fundamental civil rights and civil liberties.

Sincerely,



Ruth A. Bourquin  
Senior Managing Attorney  
Jessica L. Lewis  
Staff Attorney  
Rachel E. Davidson  
Free Expression Staff Attorney  
ACLU

Mary L Bonauto  
Sr. Director of Civil Rights &  
Legal Strategies  
Gary Buseck, Senior Advisor  
Chris Erchull, Attorney  
GLAD

cc: Superintendent Peter Dillon [peter.dillon@bhrs.org](mailto:peter.dillon@bhrs.org)  
School Committee Chair Stephen Bannon  
[scbannon@gmail.com](mailto:scbannon@gmail.com)  
Principal Miles Wheat [miles.wheat@bhrs.org](mailto:miles.wheat@bhrs.org)



Town of Great Barrington

Town Manager Performance Evaluation

period of January 1, 2023 through

December 31, 2023

Selectboard Member's Name

Each member of the Selectboard should complete this evaluation form, sign it in the space below, and return it to the Selectboard Chair. Evaluations will be summarized and included on a future Selectboard meeting.

Selectboard Member's Signature

Date Submitted

## INSTRUCTIONS

This evaluation form contains ten categories of evaluation criteria. Each category contains a statement to describe a behavior standard in that category. For each statement, use the following scale to indicate your rating of the Town manager's performance.

5 = Excellent (almost always exceeds the performance standard)

4 = Above average (generally exceeds the performance standard)

3 = Average (generally meets the performance standard)

2 = Below average (usually does not meet the performance standard)

1 = Poor (rarely meets the performance standard)

Any item left blank will be interpreted as a score of "3 = Average"

This evaluation form also contains a provision for entering narrative comments, including an opportunity to enter responses to specific questions and an opportunity to list any comments you believe appropriate and pertinent to the rating period. Please write legibly.

Leave all pages of this evaluation form attached. Initial each page. Sign and date the cover page. On the date space of the cover page, enter the date the evaluation form was submitted. All evaluations presented prior to the deadline identified on the cover page will be summarized into a performance evaluation to be presented by the Selectboard to the Town manager as part of the agenda for the meeting indicated on the cover page.

## PERFORMANCE CATEGORY SCORING

### 1. INDIVIDUAL CHARACTERISTICS

Diligent and thorough in the discharge of duties, "self-starter"

Exercises good judgment

Displays enthusiasm, cooperation, and will to adapt

Mental and physical stamina appropriate for the position

Exhibits composure, appearance and attitude appropriate for executive position

**Add the values from above and enter the subtotal**                      **÷ 5 =**                      **score for this category**

## 2. PROFESSIONAL SKILLS AND STATUS

Maintains knowledge of current developments affecting the practice of local government management

Demonstrates a capacity for innovation and creativity

Anticipates and analyzes problems to develop effective approaches for solving them

Willing to try new ideas proposed by Selectboard members and/or staff

Sets a professional example by handling affairs of the public office in a fair and impartial manner

**Add the values from above and enter the subtotal**  $\div 5 =$  **score for this category**

## 3. RELATIONS WITH ELECTED MEMBERS OF THE SELECTBOARD

Carries out directives of the body as a whole as opposed to those of any one member or minority group

Sets meeting agendas that reflect the guidance of the Selectboard and avoids unnecessary involvement in administrative actions

Disseminates complete and accurate information equally to all members in a timely manner

Assists by facilitating decision making without usurping authority

Responds well to requests, advice, and constructive criticism

**Add the values from above and enter the subtotal**  $\div 5 =$  **score for this category**

## 4. POLICY EXECUTION

Implements Selectboard actions in accordance with the intent of council

Supports the actions of the Selectboard after a decision has been reached, both inside and outside the organization

Understands, supports, and enforces local government's laws, policies, and ordinances

Reviews ordinance and policy procedures periodically to suggest improvements to their effectiveness

Offers workable alternatives to the Selectboard for changes in law or policy when an existing policy or ordinance is no longer practical

**Add the values from above and enter the subtotal**  $\div 5 =$  **score for this category**

## 5. REPORTING

Provides regular information and reports to the Selectboard concerning matters of importance to the local government, using the Town charter as guide

Responds in a timely manner to requests from the Selectboard for special reports

Takes the initiative to provide information, advice, and recommendations to the Selectboard on matters that are non-routine and not administrative in nature

Reports produced by the manager are accurate, comprehensive, concise and written to their intended audience

Produces and handles reports in a way to convey the message that affairs of the organization are open to public scrutiny

**Add the values from above and enter the subtotal**  $\div 5 =$  **score for this category**

## 6. CITIZEN RELATIONS

Responsive to requests from citizens

Demonstrates a dedication to service to the community and its citizens

Maintains a nonpartisan approach in dealing with the news media

Meets with and listens to members of the community to discuss their concerns and strives to understand their interests

Gives an appropriate effort to maintain citizen satisfaction with Town services

**Add the values from above and enter the subtotal**  $\div 5 =$  **score for this category**

## 7. STAFFING

Recruits and retains competent personnel for staff positions

Applies an appropriate level of supervision to improve any areas of substandard performance

Stays accurately informed and appropriately concerned about employee relations

Professionally manages the compensation and benefits plan

Promotes training and development opportunities for employees at all levels of the organization

**Add the values from above and enter the subtotal**  $\div 5 =$  **score for this category**

## 8. SUPERVISION

Encourages heads of departments to make decisions within their jurisdictions with minimal Town manager involvement, yet maintains general control of operations by providing the right amount of communication to the staff

Instills confidence and promotes initiative in subordinates through supportive rather than restrictive controls for their programs while still monitoring operations at the department level

Develops and maintains a friendly and informal relationship with the staff and work force in general, yet maintains the professional dignity of the Town manager's office

Sustains or improves staff performance by evaluating the performance of staff members at least annually, setting goals and objectives for them, periodically assessing their progress, and providing appropriate feedback

Encourages teamwork, innovation, and effective problem-solving among the staff members

**Add the values from above and enter the subtotal**  $\div 5 =$  **score for this category**

## 9. FISCAL MANAGEMENT

Prepares a balanced budget to provide services at a level directed by council

Makes the best possible use of available funds, conscious of the need to operate the local government efficiently and effectively

Prepares a budget and budgetary recommendations in an intelligent and accessible format

Ensures actions and decisions reflect an appropriate level of responsibility for financial planning and accountability

Appropriately monitors and manages fiscal activities of the organization

**Add the values from above and enter the subtotal**  $\div 5 =$  **score for this category**

## 10. COMMUNITY

Shares responsibility for addressing the difficult issues facing the Town

Avoids unnecessary controversy

Cooperates with neighboring communities and the county

Helps the council address future needs and develop adequate plans to address long term trends

Cooperates with other regional, state and federal government agencies

**Add the values from above and enter the subtotal**  $\div 5 =$  **score for this category**

## **NARRATIVE EVALUATION**

What would you identify as the manager's strength(s), expressed in terms of the principle results achieved during the rating period?

What performance area(s) would you identify as most critical for improvement?

What constructive suggestions or assistance can you offer the manager to enhance performance?

What other comments do you have for the manager; e.g., priorities, expectations, goals or objectives for the new rating period?

## **Great Barrington Budget & Financial Policy for Fiscal Year 2025**

### **Budget & Financial Policy**

The Town of Great Barrington will manage municipal finances wisely. This will include planning for adequate funding to:

- 1) Provide and maintain public services and facilities at a level that will ensure public well-being and safety;
- 2) Comply with all State and local by-laws, rules, and regulations; and
- 3) Meet the strategic priorities of the Town.

The budget and financial goals set forth by the Town Selectboard and the Finance Committee in the policy document outline the priorities and objectives of the Town and provide agreed-upon financial guidelines to be used in the preparation and review of the annual budget.

### **STRATEGIC PRIORITIES**

- Ensure public safety.
- Ensure public health.
- Maintain a strong local economy.
- Strive for a high quality of life.
- Seek environmental sustainability.
- Ensure the fiscal stability of the Town.
- Maintain public infrastructure.
- Support affordable housing
- Follow Great Barrington's Master Plan.

### **FINANCIAL GOALS**

- Maintain adequate financial resources to sustain municipal services in the short and long term.
- Respond to the changes in the economy and meet the priority needs of the Town.
- Provide quality services efficiently and on a cost-effective basis.
- Maintain our top-level bond rating.
- Work to keep the overall tax levy reasonable in consideration of other priorities and goals.<sup>1</sup>

### **FINANCIAL MANAGEMENT POLICY**

#### Revenue

- Services provided may not exceed available resources.
- Process must provide quality estimates of anticipated revenue.
- Process must anticipate any changes in revenue in upcoming years.
- Seek to diversify revenue sources.
- Estimate available resources including state funds, local funds, fees, grants and other sources.

#### Real Estate Tax

- Town should restrict levy to a 2.5% increase over the prior year levy limit adjusted for new construction growth and net debt and capital exclusions, as per Mass General Law.
- Proposed budget to not exceed legal property tax levy. Evaluate estimated tax rate based on level of affordability including average and median income; average and median value of real property and the cost of living.

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<sup>1</sup> For further information, see 'Tax Levy Considerations' in Financial Policy Manual, Town of Great Barrington, Prepared by Division of Local Services Technical Assistance Bureau , June 2020, page 2:  
<https://www.mass.gov/doc/greatbarrington-ccc-policies-june-2020/download>

#### Free Cash and Reserves

- The Town will monitor overall general fund reserves (free cash and stabilization funds) as a percentage of the annual operating budget. The relative percentage and sufficiency of these will be evaluated relative to guidance from the state, historical trends and other factors.
- If the Town generates free cash consistently higher than historical trends and guidance from the state, the Town Manager will closely examine future budget proposals to determine if adjustments are appropriate.

#### User Fees

- Establish user fees and other non-property tax revenues to recoup, to the extent possible, the costs of supplying a particular service.
- Review current department fee structures and charges for services periodically to determine if they reflect the cost of the service and are also reasonable and affordable fees.

#### Debt Management

- Allow no borrowing to fund operational programs
- Debt service payments may not require the elimination of essential Town services
- Ensure that the Town's general obligation debt ratio not exceed 50% of statutory limit (5% of equalized valuation).
- Exempt from Proposition 2½ any long-term capital debt for municipal buildings, WWTP improvements, fire apparatus acquisition, and school facilities improvements.

#### Service Delivery

- Manage financial resources through internal controls.
- Establish operation practices that minimize the cost of government and financial risk.
- Provide efficient public services.
- Minimize the cost of administration.
- Identify and measure performance outcomes.
- Review the level of services and standards annually.

### **Guidelines for The Budget Preparation Process**

- The Town budget will be estimated in accordance with municipal code and applicable state law. The budget is based on separate funds set forth from anticipated revenues and expenditures for the General Fund and the Enterprise Fund.
- The annual operating budget will contain complete financial statements that show outstanding obligations of the municipality, cash on hand to the credit of each fund, funds received from all sources during the preceding year, funds available from all sources during the ensuing year, revenue estimates to cover expenses in the proposed budget and the estimated tax rate required to fund the proposed budget.

The budget preparation and review process shall include the following steps:

1. Review and approve Finance Policy
2. Distribute Budget Books:
  - a. Forecast Revenues.
  - b. Updated Capital Plan.
  - c. Review Department Budgets.
3. Recommended Projects Proposed for CPA Funds.
4. Participate in BHRSD joint budget meeting with Stockbridge and West Stockbridge.
5. Hold Budget Workshop Meetings. Hold Public Hearing.

The Selectboard and the Finance Committee will jointly set the dates for the above budget meetings.

The following will be done to ensure there is community engagement in the budget process:

- 1) Provide on-line access to budget information.
- 2) Provide printed budget books for the public at the libraries.
- 3) Provide a digital budget book on the Town website.
- 4) Hold open meetings and hearing.

### **LOCAL GOVERNMENT SERVICES**

- The Town Manager will prepare the budget for review by the Selectboard and the Finance Committee.
- The Town Manager may propose significant reorganizational changes and provide alternative ways to deliver services within the proposed budget.
- Performance objectives and goals will be identified and assessed.
- The Town Manager may propose elimination of services in the budget if it is not needed or cost-effective and/or propose new services as needed.
- Any service reductions shall be noted in the budget presentation.
- Salaries and employee insurance contributions shall be set in the Fiscal Year budget pursuant to the Town's collective bargaining units and/or those already approved via a negotiated settlement and for non-represented personnel as authorized by the Town Manager.

For any proposed new initiatives, the Town Manager will:

- 1) Explain and justify the new needs(s).
- 2) Identify alternatives to what is being proposed and the pros and cons.
- 3) Identify the cost and benefit of the proposed alternative.
- 4) Identify financing source(s) to pay for new need.
- 5) New need(s) include: any expansion of municipal services necessary; any additional staff and any additional resources needed to meet service needs or expanded service needs.

### **TOWN BUDGET FORMAT**

The following will be done to ensure that the budget information is provided in a format that is clear, accurate and complete.

#### **1. Operating Budget Process:**

- The Town Manager will request that Departments submit proposed budgets with operational plans and reports. Background information will include department goals and objectives, strategic initiatives, summary of activities, and level of service.
- The Town Manager will review methods of operation, program service delivery, and expenditure of resources inclusive of manpower allocation to ensure maximum efficiency of the Town.

#### **2. The Budget Book:**

- The Town Manager will provide complete **financial statements** in the Budget Book to include:
  - Outstanding obligations and anticipated new borrowings.
  - Cash on hand.
  - Funds received from prior year.
  - Sources of funds from prior year.
  - Estimated revenues.
  - Estimated expenses.
  - Estimated tax levy.
  - Estimated tax rate.
  - Estimated user fees for services.
- The Town Manager will also provide a **Capital Budget Report** to include:
  - The Town defines a capital project as having an overall expenditure of \$15,000 and a life expectancy in excess of 3 years.

- The Town's annual budget will include a capital plan that identifies work to be started within that fiscal year.
- The budget shall include a five-year Capital Improvement Plan for all Town assets.
- Each year, the Selectboard and the Finance Committee will review the five-year Capital Improvement Plan to identify the future upcoming needs, review any changes to the schedule, cost estimate or sources of funding.
- Operational costs associated with any new equipment or infrastructure will be identified.
- The capital budget report will include the Debt Schedule broken down by department and function and a 10-year history be provided if possible.
- Identify a funding plan that reflects available State funds, grants, bonds and tax levy dollars to finance each project.
- The Town Manager shall prepare a budget for the **Enterprise Fund** that maintains it as a self-supporting fund, without a property tax transfer.
  - The Enterprise Fund budget will include a report on sewer fees and rate structure.

### 3. Other Information/Reports

- If deemed necessary and appropriate for adequate review of the proposed budget, the Finance Committee and/or Selectboard may request that the Town Manager include, if possible, supplemental materials either in the Budget Book or in a separate report/document presented at a budget meeting or at a separate meeting. These may include, but are not limited to:
  - Historical Financial Information
    - Estimated Local Receipts
    - Free Cash sources and uses
    - Tax Levy and Tax Rate
    - Special Articles, individual and totals
    - Aggregated data regarding property tax collections, such as collected/payment plan/delinquencies for last 3-5 years
    - History of various reserve accounts, i.e., stabilization, capital stabilization, "health insurance".
    - Five-year history of long-term and short-term debt
    - Schedule of Authorized but Unissued Debt, including changes from prior years
  - Financial Projections
    - Show 5-year projections of LT debt including approved future borrowings
    - Projected Debt Service payments
  - Summary Report on Expenditures for Employee Medical (current and Retired "OPEB") and Pension Benefits
    - Five year history and projected (if available)
    - Review funding for future retiree medical benefits (OPEB Trust)
    - Pension Fund summary report
    - What percentage of the obligation is funded

*Approved at December 19, 2023 Finance Committee Meeting*