

MINUTES

Devens Jurisdiction Framework Committee
September 1, 2021 @ 3:00 PM
Video Conference via Zoom

Members Present: Alan Manoian, Robert Pontbriand (Ayer); Victor Normand, Lucy Wallace (Harvard); Enrico Cappucci, Mike McGovern, Bryan Sawyer (Shirley); Peter Lowitt, Bill Marshall (Devens Enterprise Commission/DEC) Robert Carley, Edmund Starzec, Jessica Strunkin (MassDevelopment).

Others Present: Karen Davis (MassDevelopment); Paul Green (Harvard), Chris Ryan (Harvard); John Osborn

Call to Order: The meeting was called to order at 3:01 PM by Victor Normand, co-chair.

Review of Minutes: The minutes from the June 9,2021 meeting were reviewed. A motion was made to accept by Peter Lowitt, seconded by Robert Pontbriand and approved.

6th Stakeholder Working Group Recommendation

Working group met in June and have three members to recommend. John Katter - Devens Resident, Little Leaf Farms Representative - Paul Sellew, CEO and lastly Bristol Myers Squibb, is still identifying the appropriate person for the role. Jessica will inform committee as soon as she hears from them.

Victor Normand asked for a motion to admit John Katter and Paul Sellew. Lucy Wallace moved, vote approved. Mr. Normand asked Jessica Strunkin if the two candidates should meet with the sub-committee for an "orientation" Ms. Strunkin will coordinate. Mr. Normand recommended providing them with past minutes

Discussion of Two Consensus Documents Submitted by HDJC

Mr. Normand asked Paul Green to summarize a rationale for consensus.

Mr. Green mentioned that the Harvard Devens Jurisdiction Committee (HDJC) unanimously voted to approve the documents. Principled negotiation is what's laid out in the book "Getting to Yes"; it's a process. He believes that it is the best method to achieve a "win-win" situation when looking for solutions that are desirable and acceptable for all parties involved. Recommended reading up on it. Ground rules of principled negotiation provide that you negotiate in good faith. Suggested that there be a facilitator who is neutral with no stake in the outcome.

Mr. Green asked, "What is the purpose of the process we are setting forward? What is the goal of the committee?"

Ed Starzec: to make a recommendation to the legislature for the disposition of Devens.

Ms. Wallace: to have a framework, laying out that first step.

Mr. Normand: that there is agreement on what we send to the legislature.

Mr. Green stated that Harvard's goal is that every party (stakeholder) send a representative to each town meeting and have each representative be empowered to say that the stakeholder it represents fully agree with the proposal that is being presented to them. The goal is to have all parties be able to voice that they are in favor and approve whatever consensus is reached.

Ms. Wallace suggested that the recommendation needs to be approved by MassDevelopment Board of Directors and the DEC approve as well. She wanted to make it clear that Mr. Green wasn't precluding them.

Rob Carley asked whether the several towns have taken the decision that they were going to take a recommendation to their respective town meetings, noting that Chapter 498 calls only for the boards of selectmen of the towns to submit the recommendation/study to the Governor and others. Mr. Starzec Clarified Chapter 498 doesn't specifically require a super town meeting to ratify the recommendation but that it has been the typical way to pass upon major decisions regarding Devens matters.

Mr. Carley asked if that decision has already been taken.

Mr. Normand indicated that it hasn't already been taken in Harvard. Not sure if town will have select boards decide or go to super town meeting.

Mr. Normand noted that previous years used a fractional approach and Harvard is recommending coming to consensus

Mr. Green said that the parties do not all have an equal stake in these decisions, don't have the same values or land area historically. Mentioned possible weighted votes and fairness. He doesn't want to see this effort fail.

Enrico Cappucci stated that he doesn't recommend using the method of negotiation with the residents of Shirley. He advised driving down Hospital Road and coming to the Main St. in Shirley and noting the town hall, police station, library and middle school are on land that used to be Devens land [editor's note: these lands were conveyed to the Town of Shirley, but they are still within the Devens Regional Enterprise Zone as defined by Chapter 498]. Noting that Shirley doesn't demand anything, they negotiate.

Mr. Normand mentioned that that's the concept that he approached MDFA with. He said Lauren Liss recommended working with all of the parties when it comes to a recommendation on jurisdiction. It was MDFA, not the town of Harvard who initiated this committee.

Mr. Starzec stated that CH 498 requires that the recommendation for permanent governance requires the participation of all five parties (the three towns, the DEC and MassDevelopment).

Mr. Green said that he agrees with what Mr. Cappucci said. He commended Shirley for the Shirley Meadows housing project. He corrected them on one issue about it not being Devens Land [see editor's note above].

Mr. Cappucci said that is incorrect.

There was then some commentary about the previous round of discussions and action concerning a permanent governmental structure for Devens which took place in the mid 2000s. Mr. Green stated that he never held up a sign telling people how to vote regarding 2B. He was chair of the committee against it.

Mr. Green: MDFA has done a superb job with Devens and he would hate to do anything to mess that up. His goal is to see a smooth transition.

Ms. Wallace wanted to clarify Mr. Green's statement. Not every representative from each of the stakeholders has to vote yes. It is to show that all of the stakeholders are unanimous. What Mr. Green was saying about principled negotiations is to represent as best you can the entity that you represent so of course you are advocating for your own town. The point is for everyone to come to a solution for everyone to achieve the goals for their representation and achieve success for all of us. Have to weigh priorities.

Mr. Normand asked Mr. Starzed what he thinks about all 6 parties coming to agreement. Mr. Normand stated that he is supportive of that concept. The concept is a consensus that includes everyone. Mr. Normand asked, Are we ready to incorporate language along those lines in the Memorandum of Agreement?

MOA Review/Status and Next Steps

Ms. Strunkin: we have some thoughts on the specifics on the language.

Mr. Starzec: general comment/questions. Draft of section B, thinks that even though Paul has done a nice job describing the benefits of principled negotiation, the word consensus needs more definition. Such as all six parties must agree. Asked for a "cheat sheet" summary guide.

Mr. Green mentioned it is at the top of the rationale document. Consensus is defined as unanimous approval by all parties without reservation. Principled negotiation is based on facts and merits of possible outcomes, seeking mutual gains whenever possible, using fair and independent standards instead of bargaining over positions. He noted that definitions are found at the top of the rationale document he submitted where he quoted the book. He agreed that the definitions should be moved into the text of the MOA.

Mr. Normand asked if that works for him. Mr. Starzec said removing some of the language and just using the basics in the MOA.

Mr. Carley Draft MOA language said public approval and we don't know what that is, whether that means each town meeting, each board of selectman, or some other entity from each town takes action. Would like to know that in advance. It is something that we should know.

Mr. Starzec Section M would appear to potentially empower a Board of Selectmen to vote to approve a permanent governance recommendation without a Super Town Meeting.

Mr. Normand asked for recommended language.

Mr. Carley said he doesn't see how any of the entities could act without a an act of the boards of selectmen since Chapter 498 specifically calls for the study to ultimately be submitted by the DEC the boards of selectmen of the Towns and MassDevelopment .

Ms. Wallace asked for a clarifying question- Ch 498 is not particularly clear on that point. On the reuse plan it was clear. She would be concerned that we would go through this process and the community would find out that it's the board of selectmen putting a recommendation through to the legislature. She thinks we should be pretty clear that yes we are going to the town meetings. She advises that the town meeting process has worked.

Mr. Carley stated the final report has to be sent by the board of selectmen to the legislature

Ms. Wallace suggested a recommendation to the board of selectmen to submit this to the legislature.

Mr. Starzec Identical warrant question language for all three towns is needed.

Mr. Normand recommended definition in the MOA on consensus and asked Ed and Paul to work on a draft language.

Ms. Strunkin pointed out that the current language goes beyond achieving consensus. She has concerns regarding a facilitator and removal of members.

Mike McGovern Asked to clarify if 18 people all need to agree?

Mr. Green it says parties so it would specify 6 stakeholders are in agreement, not necessarily all 18 people.

Mr. Green Regarding the Vote of no confidence and professional negotiator came over a concern about the process breaking down. What if one party is out to sabotage the process? Can't get around that if it's an unanimous agreement. That's where facilitator comes in and there's an "out" when having trouble working with persons/people.

Mr. Normand asked if Ms. Strunkin is not comfortable with the language that states using principled negotiation.

Mr. Carley expressed concern w/r/t the idea that the facilitator could remove representatives selected by each stakeholder. He analogized the situation to labor negotiations, wherein it is basic principle that each side is permitted to selected its own representatives without input from the other side. He noted it would be a tough sell to the CEO of MDFA to get him to allow a third party facilitator to be able to remove a representative to the DJFC who he had designated.

Ms. Strunkin agreed. Not opposed to principled negotiation, just that the third party being able to remove a member.

Mr. Normand asked if it states that the facilitator recommends to the parties?

Mr. Green agrees that language could be adjusted to state that the facilitator recommends to the group.

Mr. Normand stated that he trusts Ed and Paul will come up with some good recommendations.

Ms. Strunkin asked if that is specific to the consensus proposal.

Mr. Starzec and Mr. Green will work to draft and distribute prior to the next meeting.

Mr. Normand - Definition of Goals and issues – kind of provide point of reference to a third party like a consultant. Not intended to be a definitive list. Intention of this committee to look at this list and take from it.

Mr. Starzec – an aid to the consultant as their work plan.

Mr. Normand Recommended taking up Funding at the next meeting.

Vicksburg Square and Permanent Government

Mr. Normand suggested that individual members of the committee should think about the pros and cons of moving forward with Vicksburg Square prior to a determination of the permanent governance of Devens. Provide to Karen Davis and she will compile Pro and Con items and bring back to the committee. His recommendation is because it is a residential proposal.

Mr. Carley asked for clarification. Mr. Normand noted that this is an issue that is being discussed by the Town of Harvard; i.e., whether rezoning Vicksburg for a residential purpose before a decision is made over permanent governance is wise.

Ms. Strunkin asked why residential use would affect the process by which MDFA and DEC have been overseeing the development in Devens to date through processes like Super Town Meeting?

Peter Lowitt His impression is that this would be holding Vicksburg Square hostage and that it does not play well in the good faith bargaining/consensus process as outlined by Mr. Green

Ms. Wallace Commented that there have been proposals before for residential use for Vicksburg. At least one town has voted it down. We want Vicksburg use to be successful. The big question is how many people, what's the demographic, what would be the cost be to the towns. If you don't know the direction and the towns don't know the responsibility they will be taking on, they will likely vote no. The uncertainty of cost around serving a residential population is what has defeated it in the past.

Mr. Normand said the HDJC will have an opinion and will make a recommendation.

Mr. Starzec the planning process should assume that it will be residential. Devens has 6,000 jobs and only 280 homes. He can argue that it would be prudent to assume that those buildings will be residential at some point in the future whether approved by Super Town Meeting, 40B or other mechanism.

Mr. Green stated that Mr. Lowitt made a good point that the towns could use it as a bargaining chip. The purpose of talking about it today is the opposite. He states that we have 10-11 years until the end game. There has to be some level of agreement and understanding. The Devens residents that serve on the HDJC have stated that they would like the future government of Devens to serve all of the residents and not be divided.

Ms. Strunkin stated that this is an important and sensitive topic. Housing needs have changed significantly since 1996. She asked for more time.

Mr. Normand agreed that this will take more time, but wants to keep it on next agenda.

Ms. Strunkin mentioned that the 6th stakeholders should be part of any discussion relative to Vicksburg Square.

Mr. Carley asked if there has ever been any other residential development proposal in the DREZ which was met with a proposal that it not be considered until a permanent government structure was decided upon?

Ms. Wallace – Zoning changes, Shirley senior housing and land swap around where CFS is going.

Mr. Normand said there were never any questions regarding the Shirley housing.

Ms. Strunkin stated there was no presumed jurisdiction scenario.

The issue of Ayer and Shirley also having a say in the future of Vicksburg Square was also raised.

Update from Shirley and Ayer on the Status of their Committees

Ayer:

Mr. Pontbriand going to have a meeting this month of the local committee to look at Ayer's interest and issues. Moving forward.

Alan Manoian Auman Street – Their committee will be comprised of nine individuals, and is seeking two residents of Devens. He is organizing and conducting a walking tour of the neighborhood to build relationships. Will be inviting everybody and looking to schedule one of the last two weeks in September. Would like to invite members of the DJFC to attend.

Ms. Wallace asked if they would be walking on Bates Street. She mentioned that they may be jealous if they skipped them.

Mr. Pontbriand Ayer local committee update expected at the next meeting. Ayer group will also be meeting regarding the funding piece

Shirley:

Mr. McGovern Not much progress, advertising and looking for volunteers

New Business

None

Items for the next Meeting Agenda

- **Sixth stakeholder representative introduction/ BMS Representative**
- **Consensus language / MOA**
- **Vicksburg Square**
- **Town Administrators meet with Jessica on Funding**
- **Funding**

Public Comment

Mr. Green said that the job of redeveloping Devens needs to be finished even while we talk about the end game. MDFA work is not done. We have had success in working out issues in the past and have had simultaneous rezoning votes. Feels as though a rezoning vote is now not being "allowed" .
Need to figure out how to continue to manage, enhance, develop, construct do the work of MDFA and the DEC while simultaneously discussing permanent governance.

Adjourn

4:27