

MINUTES

Devens Jurisdiction Framework Committee

Wednesday, January 12, 2022 @ 3:00 p.m.

Video Conference via Zoom

Members Present: Alan Manoian, Robert Pontbriand (Ayer); Tim Bragan, Victor Normand, Lucy Wallace (Harvard); Bryan Sawyer (Shirley); Jim DeZutter, Peter Lowitt, Bill Marshall (Devens Enterprise Commission (the “DEC”)); Robert Carley, Edmund Starzec, Jessica Strunkin (MassDevelopment); John Katter, Devens Representative-Resident; Odile Smith, Devens Representative-BMS (Sixth Stakeholder)

Members Absent: Jannice Livingston (Ayer); Enrico Cappucci, Mike McGovern (Shirley); Paul Sellew, Devens Representative-Little Leaf Farms

Others Present: John Osborn, editor, *The Harvard Press* (Harvard); Karen Davis, Victoria Stratton (MassDevelopment); Neil Angus, DEC; Jonathan Cozzens (affiliation unknown); 978-660-1810 (unidentified caller)

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

Meeting Minutes Approval: The minutes of the December 8, 2021 meeting of the Devens Jurisdiction Framework Committee (“DJFC”) were reviewed. Noting no questions or comments and upon motion duly made and seconded, Mr. Normand asked for a voice vote to approve the minutes and, by a roll call of the members of the DJFC present via videoconference, it was

VOICE VOTED: that the members of the DJFC approve the minutes of the Devens Jurisdiction Framework Committee meeting of December 8, 2021, as provided.

Stakeholder Updates:

Town of Ayer: Mr. Pontbriand reported that Ayer continues to make progress putting together a jurisdiction committee of its own and he hopes to provide additional updates next month. The group has met once and a schedule is being established.

Town of Harvard: Ms. Wallace advised that Harvard’s Devens Jurisdiction Committee has reviewed the DEC’s response to its Vicksburg Square position paper and the letter from local legislators, and is in agreement with all that Vicksburg Square is a good site for residential redevelopment. But, the question remains: who will provide services to the future residents there? She stated that her group is looking back to the original charge from the Board of Selectmen and beginning to develop a plan to resume jurisdiction of Harvard’s portion of Devens. She said the group will put something together and meet with the Harvard Selectmen. She suggested that it is important for all the Stakeholders to move together.

Town of Shirley: Mr. Sawyer reported no significant updates. The Town continues working to populate a jurisdiction committee.

Devens Representatives: Mr. Katter advised that he has met with numerous residents and committees, and there is renewed interest in Vicksburg Square. Efforts continue to determine the best way to engage the community.

Devens Enterprise Commission: Acknowledging Harvard's response to the DEC's memorandum on Vicksburg Square, Mr. Lowitt said he appreciates the follow-up response and analysis. He suggested keeping this item on the Agenda for the next meeting.

MassDevelopment: Ms. Strunkin acknowledged receipt of the letter to MassDevelopment from the local delegates, including its suggestion regarding funding.

New Committee Updates:

Sixth Stakeholder: Mr. Katter advised that the Sixth Stakeholder group has not met.

RFI/RFQ Committee: Ms. Wallace reported that the group has met once, and that Mr. Starzec offered to draft a Request for Information. A brief discussion ensued regarding the difference between a Request for Qualification and a Request for Information, and Mr. Starzec agreed in the next week or so to flesh out what an RFI will look like (in order to get a sense of potential project costs and the level of funding required). Ms. Wallace advised that the group also discussed the possibility of releasing a Memorandum of Agreement, or MOA – addressing goals, responsibilities, and funding – together with the RFI to provide substance for potential developers. Mr. Starzec said he is working on it.

Quorum Determination: Ms. Strunkin expressed the need to determine for this Committee what constitutes a quorum. She wondered if attendance by a simple majority (half the members, plus 1) is enough, and a discussion ensued. Mr. Carley reminded everyone that there are 18 members on the DJFC and he asked what happens if no one from a particular Stakeholder attends. Does that mean there is no quorum for the meeting? Ms. Smith suggested that the meeting could go forward under those circumstances, but no votes could be taken; in other words, no official business could occur. Following the discussion, upon motion duly made and seconded, Mr. Normand asked for a voice vote to define what constitutes a quorum of the DJFC and, by a roll call of the members of the DJFC present via videoconference, it was

VOICE VOTED: that the members of the DJFC define a quorum of the Committee as requiring that a numerical majority of the 18-member Committee (9, plus 1) is required in attendance and must include at least one member from each of the six Stakeholder groups. Ms. Smith requested, as a condition of this vote, that all materials to be discussed at the meeting(s) be provided in advance – up to a week is preferred, but no less than 24 hours – and there were no objections.

Mr. Carley advised that the foregoing vote did not and could not change any applicable Open Meeting Law requirements. Rather, the above discussion and vote speaks to how the DJFC wishes to conduct its business. Mr. Lowitt reminded everyone that as counsel, Mr. Carley is protecting the group, legally.

Vicksburg Square: Mr. Normand confirmed that copies of Harvard's and the DEC's papers were distributed, and a robust discussion ensued. Mr. Lowitt began, noting the buildings are becoming compromised and will collapse without key elements of intervention. He noted the availability of tax credits and called for rezoning sooner rather than later. He said he respects the comments from Harvard and he requested that MassDevelopment clarify its position. He suggested giving the Agency sufficient time to respond in writing to the DJFC.

Mr. Katter stated that Vicksburg Square is a top issue for the residents of Devens and there are misconceptions that must be cleared up, which will take a bit of time, but not long. While people recognize the need, there are concerns regarding the "affordable" versus "low income" components of the project and Mr. Katter suggested it is important to clarify the distinctions between them. Additional concerns include: how many people will live in Vicksburg Square; how many children will be added to the local school system(s), etc. Mr. Katter said the residents want to be good stewards for this process, and he cautioned that a lack of information encourages people to draw their own conclusions. Mr. Normand concurred, noting that uncertainty makes for failure(s) at Town Meeting(s). He agreed that everyone is motivated to provide accurate information.

Ms. Wallace agreed, noting that the reason Vicksburg Square is front and center is because it has been in hiatus. She commented that if rezoning is to pass, there first needs to be clarity on governance. Harvard sees those two things as converging. Ms. Wallace called attention to two failed Super Town Meeting attempts and advised that two towns didn't vote because of uncertainties. She opined that the two towns most affected – Harvard and Ayer – want to know if Vicksburg Square is to remain split between them. She emphasized that she believes Harvard does not want to fail again at Super Town Meeting and agrees that the proper mix of housing (homeownership versus rentals; income levels; etc.) is the best use for the property. She added that if jurisdictional boundaries could be decided, then each Town would know what is to be expected and could better determine appropriate services and expenses. Further, Ms. Wallace said she did not think this determination would slow down any potential redevelopment of Vicksburg Square; indeed, it may have the opposite effect.

Mr. Pontbriand advised that Ayer is in receipt of Harvard's position paper and the other documents, which are under review. The Town will submit a response. He referenced Harvard's paper and, in particular, the section entitled "TOWNS WON'T SUPPORT," and requested formally that the Town of Harvard please not speak for the Town of Ayer. He called it presumptuous, at best. He agreed with what had been said about the issue of uncertainty, noting it increases the likelihood of a negative vote. He indicated that there remains the need to flesh out the uncertainties surrounding the future of Vicksburg Square and/or concerns over final jurisdiction. He wondered if there has been a cost/benefit analysis of doing nothing. In closing, he reminded everyone that all three of the surrounding Towns, including the Devens community itself, have changed markedly in the 20+ years since Chapter 498 was enacted. Mr. Manoian agreed that Mr. Pontbriand covered everything; he said Ayer has a staff and a team ready to work.

Mr. Sawyer advised that, historically, Shirley has voted to approve rezoning efforts. Noting that the determination of final disposition and governance is likely to be a long process, he said there are great concerns regarding the condition of the buildings at Vicksburg Square and fear that they will be beyond saving by the time a final disposition determination is made.

Responding to concerns expressed by Ms. Wallace above, Mr. Lowitt stated there are numerous examples of developments that cut across town lines; it is a numbers game that can easily be addressed. Ms. Wallace responded that, based on what she has heard, the residents do not like the idea of being split between two towns. The residents have a strong sense of identity, which makes it complicated. To this, Mr. DeZutter suggested – just for thought – that the Committee members ask themselves, “How would we feel if we were all Devens residents?” He reminded everyone that the people and businesses in Devens wish to be a single entity.

Ms. Strunkin advised that MassDevelopment is reviewing all documents. She also noted that she has heard similar concerns from Devens’ residents about remaining one community. She emphasized, however, that the charge of the DJFC is to discuss long term governance of the entire Devens Regional Enterprise Zone, or the DREZ, not just Vicksburg Square. Ms. Smith echoed this sentiment. Ms. Smith stated that ultimate governance is vital, and she feels like Harvard’s paper is using Vicksburg Square to push the issue. When Mr. Normand asked if/when there will be a written response from MassDevelopment, Ms. Strunkin said she did not have an answer to that question at this time. Mr. Starzec referred to a 2018 report on the condition of the Vicksburg Square property, including the structures, stating he will provide a copy.

Ms. Strunkin advised that the DJFC website really needs to be established, as it would be a helpful repository for documents and information for the group. Mr. Pontbriand said Ayer is happy to host such a website; he suggested something could be up and running in the next day or two and he offered to work with Ms. Strunkin in this regard.

Mr. Normand asked about a timeline for the group, and when it was noted there is none, he suggested keeping this on the Agenda. When asked if Mr. Katter had any questions or issues, he said he continues to work on how best to communicate with residents. He thanked the Committee and said he will keep meeting with people to figure it out.

In conclusion, Mr. Manoian suggested that Vicksburg Square could also benefit from an ambitious new MBTA community zoning program and when asked about a timeline, he could not confirm but recalled that such districts must be established by December 2023. Mr. Starzec advised that the DHCD Guidelines for implementing this program are still in draft form and open for public comments.

Next Meeting(s): It was determined that the next meeting of the DJFC, scheduled for February 9, 2022, will take place via videoconference.

New Business: Mr. Normand asked if there was any new business and there was none.

Items for the Next Meeting Agenda: It was agreed to keep or add the following items to the Agenda for the next meeting of the group:

- Town Administrator Update(s) and/or Stakeholder Update(s)
- Harvard’s position paper and related documents
- Vicksburg Square

- Timeline
- Nature of March meeting (i.e., in person vs. hybrid)

When asked if there is anything to add, Ms. Strunkin mentioned the administrative burden on MassDevelopment regarding the frequency of these meetings, which may need to be discussed going forward.

Public Comment(s): None

Adjourn: With no objections and upon motion duly made and seconded, the Committee meeting was adjourned at 4:02 p.m.

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