

MINUTES

Devens Jurisdiction Framework Committee

Wednesday, July 13, 2022 @ 3:00 p.m.

Video Conference via Zoom

Victor Normand, Co-Chair
Jannice Livingston, Vice Chair

Members Present: Jannice Livingston, Alan Manoian, Robert Pontbriand (Ayer); Victor Normand, Rich Maiore (Harvard); Bryan Sawyer (Shirley); Peter Lowitt, Bill Marshall, (Devens Enterprise Commission); John Katter (Devens Representative-Resident), Odile Smith, Devens Representative-BMS (Devens Stakeholder).

Members Absent: Tim Bragan (Harvard); Enrico Cappucci, Michael McGovern (Shirley); Jim DeZutter (Devens Enterprise Commission); Paul Sellev (Devens Representative-Little Leaf Farms).

Guests Present: Paul Green (HDJC Member and Harvard resident); Susan Gabriel (Devens residents), Maureen Babcock, Neil Angus (Devens Enterprise Commission).

Call to Order: The meeting was called to order by Victor Normand, co-chair, after a short delay due to technical issues with the Zoom meeting setup.

Meeting Minutes Approval: Members offered no corrections to the minutes of May 11 or June 8, 2022. Bill Marshall moved and Peter Lowitt seconded a motion to approve the minutes of May 11. The vote to approve was unanimous. Jannice Livingston moved and Peter Lowitt seconded a motion to approve the minutes of June 8. The vote to approve was unanimous.

MassDevelopment Update: Victor asked whether any members had received any communication from MassDevelopment. No such was reported. He reported that the Harvard Press received a written response from MassDevelopment, which was essentially an elaboration on email members had previously received, with no new information.

Activity by Senator Eldridge re DJFC: Paul reported he spoke with Sen. Eldridge, who placed a \$400,000 line item in the state budget for the next year to pay for the work of this committee and consultants. It is an authorization to borrow money via a bond issue, so it must be approved by the Governor. Paul thinks Sen. Eldridge would appreciate letters of support from the towns and other parties for his proposal. Sen. Eldridge does not foresee any difficulty to get this bill enacted. The Harvard Press reported that the bill proposes to have Ayer administer the funds, for which Paul thanked Ayer. Paul added that he does not know where the figure of \$400,000 came from. Victor added that he spoke with Sen. Eldridge and learned that once the bill is approved, the funds will need to be appropriated by the Governor, and only then become available. Sen. Eldridge encouraged us to continue to pursue other avenues for funding.

Stakeholder Updates: Ayer's committee did not meet in the past month. Shirley is still working to populate its committee. Victor reported that Harvard's committee is planning to hold public meeting(s) in the fall to present its draft summary plan. Harvard hopes to engage citizens from all 3 towns and Devens. He said that Harvard has many new residents who are probably unfamiliar with Devens issues. Even families with children in the Harvard school system have a limited knowledge of the wider issues.

John Katter reported that a Devens Residents Group has been established with two households from every neighborhood in Devens. They have created an initial steering committee, and are discussing multiple issues affecting Devens, including the jurisdiction question. The committee is providing copies of fundamental documents to its members, including Chapter 498, the Reuse Plan, the state constitution, and documents from the towns and the DEC. Their purpose is to activate Devens residents on all issues impacting them. He reports that the activity level is high. John is the contact person.

Peter Lowitt reported that the DEC is approaching a development cap that is in the bylaws. It is seeking a change to remove the 8.5 million square feet threshold and wishes to replace the cap with the environmental constraints, such as the amount of traffic, fresh water use, waste water processing, and so forth. He described this as an administrative change, similar to when the height restriction was changed via special legislation to accommodate Bristol Myers. He expects that the cap will be reached by December 2022 or early in 2023. He suspects that MassDevelopment is reluctant to request a super town meeting to approve the change. Victor said that the Harvard-Devens Jurisdiction Committee recommended to the Harvard Select Board that it defer approving the change until receiving more detailed information. The HDJC also recommended that MassDevelopment send a representative to provide information to the Harvard Select Board. Since the proposal is to eliminate the cap, Harvard would like to see a parcel by parcel explanation of potential development. Peter reported that the DEC analyzed the current environmental constraints, shared the information with MassDevelopment, and that both the DEC and MassDevelopment are comfortable with the analysis and the proposed change. Peter asked Victor to provide a list of questions so he could prepare for the meeting with the Harvard Select Board. Jannice asked for similar consideration for Ayer. Rich asked Peter to pass on an invitation for Mr. Rivera to join the meeting.

Odile said that raising the commercial cap is something that is of interest to Bristol Myers Squibb and would like to see it raised. She noted that BMS is probably the largest commercial client at Devens. Peter noted that once the development cap is reached, the DEC cannot grant any more permits and thus hitting the limit potentially would place future BMS phases at risk, and also place Salerno Circle, the North Post, and Shirley Village growth expansion at risk. The commercial cap is unrelated to the housing cap. The DEC is not proposing to change the environmental limits. Peter said that the DEC's role in creating sustainable development has resulted in the existing development staying between 50% and 75% below the original limits designed to protect the environmental. Instead of 50K daily traffic trips, Devens is at 20K. Instead of 4M gallons of fresh and waste water, Devens is at 1.4M and 1M gallons. The original projections estimated that the environmental caps would be hit at 8.5M sq. ft. Peter said that the DEC believes that additional commercial development can be permitted, benefiting the communities, while still adhering to the original environmental protection limits. In response to a question from Odile, Peter confirmed that MassDevelopment would like to see the issue of the commercial cap resolved.

Victor asked if anyone saw an opportunity to bargain with MassDevelopment, to obtain some of the outcomes desired by the DJFC. Bryan said that he spoke with Sen. Eldridge, and also heard the presentation by Peter at the Shirley Select Board meeting. He said that the Shirley Select Board is comfortable endorsing the change. They would like to seek funding for the work of this committee and for consultants, and informed Sen. Eldridge of this request. So the earlier news that Sen. Eldridge is seeking funding is good news. Victor said that asking MassDevelopment to show up at these meetings is not a big ask. Robert noted that bargaining is a two-way street. He reported that Mr. Rivera has never appeared before the Ayer Select Board for the entire time he has led MassDevelopment. Further, the contract between Ayer and MassDevelopment for water services has been languishing for months inside MassDevelopment, until yesterday. Mr. Rivera still has not responded to any of our letters and yet when

they want something, they want it immediately. Robert would like to see a true, collaborative partnership with MassDevelopment.

Rich echoed Robert's comments. He noted that we are in a long-term partnership and so there needs to be some give and take. He feels that the towns want to be good partners. We want to hear an explanation [for their withdrawal] and funding for consultants. This will help us provide guidance to our towns.

Bill said that the DEC is required to follow bylaws. He said that the DEC has done an outstanding job meeting sustainability requirements at Devens. Without relief, over the upcoming year Devens development will hit a wall and stop; this is not good for the Commonwealth or any of the communities and people involved. As much as we would like to see MassDevelopment be part of this process, development continues and the DEC needs to be ready to address it. This is a critical time for us. He doesn't disagree with people's frustration. MassDevelopment should have raised the limit when they did the Mass Department of Environmental Protection adjustment in 2005 or so. He believes that without ongoing development it will be hard to create a jurisdiction process. He fears that if developers walk away we may not get them back again. The DEC wants no interruption in the permitting process.

Victor and Jannice responded that they have heard nothing in this meeting to discourage development at Devens. Jannice said that this is not a crisis and we should be able to take a couple of weeks to get more information. She noted that the fact that MassDevelopment is not talking to anyone, even our elected officials, is a problem, and that she characterized MassDevelopment as hiding in a closet, and that commercial developers should be concerned about this. She appreciates the work that the DEC has done.

Paul offered a "3rd approach" to resolve the question of whether to eliminate the cap or not. He noted that the current proposal is to eliminate the cap on square footage. He suggested that an alternative approach would be to raise the limit on square footage sufficiently to handle the next couple of years. This will allow development to proceed while forcing MassDevelopment to return again to remove the limit on square footage. He noted that his proposal would probably mean amending Chapter 498 twice but he doesn't see that as a heavy lift.

Paul also noted that during his conversation with Sen. Eldridge, the senator expressed the hope that other parties would also contribute funding, including the DEC, which has promised to match funds contributed by the other parties.

Peter reminded members that the legislative session ends at the end of July. Any legislation will have to be submitted this month. Otherwise, it will wait for the next administration and legislative session. We are now at 7.75M sq. ft.; the limit is getting closer and closer. Jannice reported that Sen. Eldridge has told Ayer that the legislation does not need to be submitted this month. She doesn't agree with the urgency. We need more information and we need all parties at the table, including MassDevelopment.

Plan DJFC Meeting with Devens Residents & Businesses: Alan proposed holding a unity social for DJFC members and guests on September 2. He proposed meeting with Devens residents and promised to forward a schedule to members of this committee. Ayer plans to recruit members to its various town committees at an upcoming fall folk and arts festival in downtown Ayer on the first Saturday in October. This could be an opportunity for this committee to speak with Ayer residents.

New Business: Victor raised the idea of this committee writing a letter to each candidate for governor, asking them, if elected, to quickly appoint a new secretary of housing and development, who will then

automatically become the head of MassDevelopment. We have an opportunity to raise awareness. Jannice suggested that we might simply invite them to meet with this committee. Rich concurred with Jannice, and added that this [jurisdiction planning] is a critical issue in central Massachusetts. John also concurred with Jannice. Victor will draft a memo for discussion at our August meeting.

John asked for the committee to discuss the idea of adding another member of the Devens community to this committee. Victor said he would discuss whether Paul Sellew, who has never attended a meeting, would relinquish his seat to a Devens resident.

John asked for committee members to weigh in on the question of continuing virtual meetings; Peter said that virtual meetings have been extended through the end of September and that the legislature may extend it further.

Public Comment: Victor asked if any of the guests had any comments they wished to make. Susan Gabriel said that John had covered her concerns. Paul asked for someone on the committee, or a town employee, to take over his role as a minute taker. He is willing to help Victor with posting agendas. Susan Gabriel offered to help Paul with taking minutes.

Items for Next Meeting Agenda: Letter to gubernatorial candidates.

Adjourn: Jannice moved and Bryan seconded a motion to adjourn. The meeting ended shortly after 4 pm.