

**Harvard-Devens Jurisdiction Committee**  
**Meeting Held using the Zoom Videoconferencing Facility**  
**Minutes of the February 4, 2021 Meeting**  
**Paul Green, Clerk**

## **Attendance**

**Members Present:** Jane Biering, Paul Green, Kara Minar, Tim Myllykangas, Victor Normand, SusanMary Redinger, Lucy Wallace.

**Members Absent:** George Glazier, Heather Knowles.

**Guests:** Matt Flokos (Harvard Press), Jim DeZutter (DEC), Karen Davis (MassDevelopment).

The meeting was called to order by Victor Normand at 9:00 am.

## **Approval of Minutes**

SusanMary Redinger moved to approve the minutes of December 3, 2020. Lucy Wallace seconded the motion. The committee unanimously approved the motion. Lucy then moved to approve the minutes of January 7, 2021 and SusanMary seconded the motion. The committee unanimously approved the motion.

## **Review Draft MOA - Goals and Concerns Section**

Victor noted that Lucy and Jane submitted suggestions on language for Harvard portion of the goals and concerns section of the draft MOA. Victor added that the list of goals and concerns in the MOA is not intended to be complete or final. He recommended that we submit Lucy's and Jane's material as our initial draft. Lucy emphasized that the draft simply represents how far along we have progressed, and hoped that we could work with the other stakeholders to fill out this section. Jane noted that she sees three viable jurisdiction options (resumption of jurisdiction by one town, by one or more towns per historic boundaries, by one or more towns not by historic boundaries), and noted that the issue of regional management is not necessarily a jurisdiction option but relates to how the utilities and infrastructure are handled. Lucy added that permitting could also fall under regional management. Victor noted that our list is a starting point; and that we are not endorsing any issue but simply listing our concerns.

Victor hoped that submitting our list will start a discussion with other stakeholders.

Kara concurred with Jane's refactoring of the various jurisdiction options into fewer choices.

Paul suggested creating a FAQ by asking the consulting firm to explain why certain options are non-viable, and why the towns rejected them out of hand. Victor expects that the consultant will be familiar with 2B. Kara asked if we should approach other stakeholders informally and learn which options are viable and which are not. Victor felt that this type of consultation belongs in the Framework Committee and should be raised there. Lucy said we work in the open and anyone interested can find out our concerns. SusanMary feels Paul's suggestion is valuable as it may head off questions at a future Town Meeting. Victor said that this set of issues can be discussed at the Framework Committee independently of our other goals and issues. Lucy volunteered to combine Jane's list and her own list into a unified list of goals and concerns, and submit the combination for discussion next month.

## **Review Draft MOA - Other Sections (Funding and Consensus)**

Victor entered two documents into the record (see attachments), one from Lucy on funding and one from Paul on consensus.

Kara noted that MassDevelopment<sup>1</sup> is supposed to publish a report every 5 years, but cannot recall where this requirement was published. Lucy said they have issued just one report. Victor said that the DEC has been good about publishing regular progress reports on its work. Kara will look for the reference to the reporting requirement.

Victor noted that the initial environmental permit envisioned 8.5 million square feet of development. He noted that when that level of development has been reached, a new environmental permit will be needed.

SusanMary moved and Lucy Wallace seconded a motion to approve the funding agreement and the definition of consensus, as presented (see appendix, below). The committee unanimously approved the motion.

## **Review Draft MOA and the Charge from the Select Board**

Victor proposed that we rework the list of the alternative government structures in the MOA to refine it more clearly, for the purpose of presenting the revised list back to the Framework Committee. Victor then put the following options for discussion:

- Devens as a new municipality
- Devens, in its entirety, incorporated into one of the three towns
- Resumption of jurisdiction by the three towns, generally along historic boundaries
- Resumption of jurisdiction by one or more towns, not according to historic boundaries

Kara said that this committee is working under the charge from the Harvard Select Board, which she believes calls for an up or down vote on Harvard resuming jurisdiction along its historic boundaries. She stated that some slight rejiggering of the boundaries is likely to accommodate the existing residential community, but that discussing so many different options would not lead to consensus building.

Lucy noted that in our Goals and Issues we have listed the last 3 of the 4 above options. Earlier in this meeting, we agreed to drop Devens as a new municipality. Kara expressed skepticism that any of the towns would agree to incorporating Devens into just one of the three towns. Lucy said she does not want to presume to speak for the other towns. Paul reminded the committee that during the 2B debate, an Ayer Select Board member did indeed say that he felt that Ayer would be willing to take all of Devens.

Kara expressed concern that by agreeing to put all of these options into the MOA, we are operating outside of the charge from the Harvard Select Board. Paul said that we had agreed at our previous meeting that we should go back to the Select Board to discuss and amend our charter. Paul said that even a minor boundary change is outside of our charge, and that since multiple committee members appear to feel that minor boundary changes are warranted, we need to at least have that discussion with the Select Board, with an eye towards updating our

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<sup>1</sup> Editor: Research after the meeting suggests that the the Devens By-Laws require the DEC to publish a report every 5 years, and that the most recent report was published in 2016. The DEC is due to produce an updated progress report in 2021. Its previous reports are available at <http://www.devensec.com/district-development.html>.

charge. He also noted that the boundary between Ayer and Harvard is not only a town boundary; it is also a county boundary.

SusanMary expressed concern about the sequencing of the discussions. She said that the towns should come to an agreement on the set of outcomes before hiring a consultant. The master plan can inform this decision. Reducing the number of options will also reduce the cost of the study.

Lucy agreed that the town master plan contains helpful information on the areas that need to be studied before a thoughtful plan can be put to the town for a vote. She agrees that we need to update the Select Board. We can explain where the discussion stands with regard to the MOA. She said we can ask the Select Board to approve a set of disposition options and our desire to work closely with the Framework Committee.

Paul said he hoped that the HDJC would have time on the agenda for the upcoming Annual Town Meeting where we can give a report to the Town on our progress over the last year. Lucy added that we could write a "Consider This" article for the Harvard Press.

Victor proposed that, as members of the Framework Committee, we raise the topic of the set of possible outcomes with the Framework Committee, as the willingness of MassDevelopment to fund the effort hinges on the towns working together. He stated that the consultant needs to provide Harvard with a thorough analysis of the resumption of jurisdiction along its historic boundaries. If other stakeholders want to look at other options, so be it.

To be clear, this committee has yet to take a vote on the list of our goals and concerns.

## **Discussion with Political Representatives**

Victor asked what committee members felt about inviting several area political representatives to one of our HDJC meetings. Jamie Eldridge asked us prepare a list of major topics that we wanted him to address, so he could prepare for the discussion. Victor asked for a committee member to volunteer to prepare a list of 3-4 major topics. Paul and Lucy offered to work together on such a list. Victor stressed that the list should be kept to 3-4 high level topics. We will discuss these topics at our next meeting, in March, and plan to invite the representatives to our April meeting.

## **Other Business**

We discussed when to ask for a meeting with the Harvard Select Board. The consensus was that we cannot restrict ourselves to a single option. Once we know, via discussions at the Framework Committee, which options the towns wish to discuss, then we should approach the Select Board to discuss expanding our charge.

MassDevelopment has a new CEO, Dan Rivera, former Mayor of Lawrence. We discussed whether to invite him to the Framework Committee. We can also invite him to attend one of our meetings via Zoom, if we have Harvard-specific concerns. The committee's consensus was to ask the Select Board to congratulate him on his new position, and invite him to speak with them about Devens.

Paul recommended that members of the committee acquire and read (or listen to via an audio book) two books. These books describe the process of Principled

Negotiation, which forms the basis for the type of negotiation he envisions the parties using for the Devens future government structure effort.

*Getting to Yes: Negotiating Agreement Without Giving In*, by Roger Fisher and William Ury, 3rd Edition, 2011. Penguin Books, ISBN 978-0-14-311875-6. 204 pages (paperback).

*Getting Past No: Negotiating in Difficult Situations*, by William Ury, 2007. Bantam Books, ISBN 978-0-553-37131-4. 189 pages (paperback).

As some people already owned the books, and some wanted to read them, and some wanted to listen to them, the decision on how to acquire the books, and in what form, was left to each member. Paul suggested that after people had some time to read the books, we could ask Chris Ryan to lead us through the material, as he trains people to use these methods.

## **Public Comment**

Jim DeZutter commented that the residents and industry in Devens are developing their own culture and so they might not want Devens to be split up between the towns. Victor noted that the input of residents and businesses at Devens is important and will inform the process. Lucy noted that the residential development is entirely within Harvard, aside from a few houses in Ayer.

Karen Davis offered to distribute any of our memos within MassDevelopment.

## **Next Meeting**

Set for March 4, 2021.

## **Adjournment**

Victor adjourned the meeting at 10:13 am. The vote to adjourn was unanimous.

## **Attachments**

Jane Biering submission for the Goals and Concerns section.

Lucy Wallace submission for the Goals and Concerns section.

Lucy Wallace submission for the Funding section.

Paul Green submission for the Consensus section.

## Goals and Issues – Jane Biering

I believe the overarching goal of the Devens work (and therefore the consultant's work) should be to enfranchise the residents of Devens. I don't believe that anyone should consider a governance option that maintains the current lack of alignment between property taxes and voting rights.

This goal, would, I gather, force the elimination of one or more of the potential governance options that are currently in the MOA. It would eliminate the "status quo" option, as I understand it. I believe it also eliminates the regional management option.

This would leave four options:

1. Devens as a new municipality
2. Devens, in its entirety, incorporated into one of the 3 towns
3. Resumption of jurisdiction by the three towns (generally) according to historic boundaries
4. Resumption of jurisdiction by one or more towns not according to historic boundaries.

The hybrid option would be out because it would be a null set...I think the four above cover all the possible combinations, depending on how strictly one defines "generally according to historic boundaries" in #3.

The issues to be examined under these options would be, I believe:

- First among equals...the enfranchisement details. Under each scenario...where would I (as a resident of Devens) vote?...where would my property taxes go?...would I be able to vote on how those monies are spent / on representatives who would decide how those moves would be spent?
- The ownership and operation of utilities
- The ownership and operation of other infrastructure (roads, police, fire department)
- The impact on education - where would kids attend schools...current and forecasted number of kids..elementary, middle school, high school
- The other issues currently listed under Section H.

I sincerely hope I'm not entirely off-base here. I look forward to the meeting on Thursday.

**DRAFT MOA – Section E: Initial Identification of Goals and Issues**

Goals for Harvard – Resuming jurisdiction:

1. Success: That resumption of jurisdiction of historic lands on Devens is beneficial to all parties.
2. Viability: That resumption of jurisdiction is politically, economically, culturally, and socially viable through re-integration of the Devens lands with Harvard.
3. Sustainability: That a thorough analysis of factors laid out in the 2015 Burns McDonnell report, as well as Section H of the MOA indicates that resumption of jurisdiction will be sustainable.

Issues:

1. Residents living on Devens are currently disenfranchised at the local, municipal level; this will only be corrected by having local municipal governance in accordance with state law.
2. Scenario 2B (the creation of the town of Devens) was roundly defeated by 2 of the 3 Devens towns and does not need to be revisited. Similarly, MassDevelopment, as a state public-private economic development agency, is not a municipal entity under state law.
3. The membership of the DEC lacks sufficient representation of Harvard (or Ayer or Shirley) interests and should be modified to be comprised of four appointees from each of the Devens towns.
4. The Devens Reuse Plan, Devens zoning, and one-stop permitting by the DEC need to remain in place; although need to consider refinement of amendment process (all amendments by Super Town Meeting? Provision for town to enact minor amendments to zoning within town boundaries?).
5. There needs to be a transition plan to guide issues associated with jurisdictional responsibilities and costs, as well as a plan for future local governance of the DREZ.
6. Public outreach and education on issues, possible solutions, and outcomes are critical for process to succeed.
7. Revisit Section I to refine list of alternatives to be considered (or to what extent) in the Study.

## **Draft MOA: Section K – Funding for Consultant Work**

Funding for the Consultant work will be provided by MassDevelopment

*Rationale:* The Introduction to the November 14, 1994 *Devens Reuse Plan* (the Reuse Plan) states that the January 1994 passage of Chapter 498 of the Acts of 1993 (Chapter 498) would not become effective unless the Reuse Plan and associated Bylaws were approved by majority vote of the Town Meetings of Ayer, Harvard, and Shirley no later than December 31, 1994. The Reuse Plan and Bylaws were adopted by majority vote of each Town Meeting on December 6, 1994. Section 1 of Chapter 498 states “It is also the purpose of this act to provide an *interim* governmental structure for Devens which will assume specified local authority and duties.” According to the Reuse Plan, the interim period would last for 40 years.

With the approval of the Reuse Plan and enactment of Chapter 498, the Land Bank (precursor to MassDevelopment) became the redevelopment agency for Fort Devens and was, therefore, entitled to all federal base reuse funding, as well as a \$200 million bond authorization. In addition to assuming the responsibility for redeveloping Devens in accordance with the Reuse Plan and providing necessary services, the Land Bank assumed all authority to tax or levy fees on residents and businesses (Section 21 of Chapter 498). In essence, while the towns were no longer responsible for providing services, they also had no source of revenue for matters the towns *may engage in related to Devens*.

Beginning with funding the development of the Reuse Plan and associated Bylaws, the state (through the Land Bank and then MassDevelopment) has paid for consultant services. Other planning efforts funded by the state include the Devens Open Space and Recreation Plan and its subsequent updates, so-called Scenario 2B in 2006, planning and zoning changes for the Grant Road residential area, and several Vicksburg Square plans. These plans have always included significant public participation, including steering committees populated by representatives from the towns and other stakeholders.

The planning for the final disposition of Devens which is now being undertaken jointly by MassDevelopment, the DEC, the towns, and Devens residents and businesses is no different from earlier planning endeavors. Rather, it is the final step in meeting the requirements of Section 23 of Chapter 498, which states that “on or before July 1, 2030” MassDevelopment, the DEC, and the towns “shall initiate a study...concerning permanent government structure for the ongoing operation and administration of Devens.” The study and a report recommending a permanent government structure are to be submitted to the Legislature on or before July 1, 2033.

Given its sole access to revenues related to Devens (state bonding, revenue from land sales and rental, taxes and fees assessed on Devens properties), and its responsibility to oversee the successful redevelopment of Devens in this 40-year period, it is MassDevelopment’s obligation to fund the consultant for this final planning effort.

**Town of Harvard  
Harvard-Devens Jurisdiction Committee  
MOA Definition of Consensus  
Draft for Discussion  
December 1, 2020**

**Draft of MOA Section D - Definition of Consensus Approval**

The Parties agree to use the method of Principled Negotiation for the purpose specified in Section B of this memorandum. The Parties agree to empower their representatives to fully, faithfully and honestly present their goals, issues, and concerns as specified in Section E of this memorandum and as further elaborated during this planning process. The Parties agree to communicate frequently with their representatives and work diligently to resolve any misunderstandings, disagreements, ambiguities, or roadblocks that are hindering the planning process. The Parties agree that its representatives shall attend every meeting of the planning process, insofar as is practical and safe, and further agree to replace any representative who is unable to attend at least three-quarters of the duly posted meetings. The Parties agree to hire an experienced, professional facilitator to train the representatives (and members of the Parties) in the use of Principled Negotiation and to serve as a disinterested guide and coach throughout the planning process. The Parties agree to replace any representative when said facilitator notifies them in writing that a representative is unwilling or unable to follow the method of Principled Negotiation. The Parties agree that consensus agreement shall be defined as unanimous approval of the final study by all Parties, with the ability for any Party to submit in an appendix to the study any reservations or concerns that did not prevent its approval by the Party.

**Draft of MOA Section M - Public Approval of the Study**

The Parties agree that approval of the study by all Parties, as specified in Section D of this memorandum, shall be necessary and sufficient to submit the Study to the Governor, the Secretary, the Clerk of the House and the Clerk of the Senate pursuant to the requirements of Chapter 498 of the Acts of 1993.