

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

Attendance

Members Present: Jane Biering, Paul Green, Heather Knowles, Tim Myllykangas, Victor Normand, SusanMary Redinger, Lucy Wallace.

Members Absent: George Glazier, Kara Minar.

Guests: Matt Flokos (Harvard Press), Jim DeZutter (DEC), Karen Davis (MassDevelopment, Assistant to Jessica Strunkin), Chris Ryan (Harvard Planner), Ed Starzec (MassDevelopment, Real Estate).

Victor Normand called the meeting to order at 9:00 am.

Approval of Minutes

SusanMary offered several corrections to the minutes of February 4. The changes were accepted. SusanMary moved to approve the minutes; Jane seconded the motion and the minutes were unanimously approved.

Review Draft MOA - Goals and Concerns Section

Victor distributed a document that combines the memos from Jane and Lucy into a single memo. Jane explained that her initial view was analogous to asking a consultant to create a huge spreadsheet with the disposition options across the columns and the key issues down the rows. The consultant would fill in the cells with information about each issue for each option. An impartial observer could then look at the information and determine which option is the best. But we are not an impartial observer; we are guided by the Select Board down a certain path. She hopes that once all of the parties have provided their information and had it analyzed by the consultant, we will be able to agree upon a solution. For now, our job is to represent Harvard and that's what we have written.

Victor noted that this is the section where the towns introduce their goals and concerns from their own perspective.

Lucy said that the idea of a giant spreadsheet might indeed help the consultant, and that some of the governance options might get dropped along the way, simplifying the process. We agreed to provide a list of options we don't think are helpful and explained why.

The committee members discussed whether the draft language provided sufficient clarity as to whether Harvard favored a strict resumption of its historic borders or was amenable to some changes in the borders. Members suggested using the phrase "generally along historic boundaries" to emphasize that minor boundary changes are acceptable. Lucy agreed to revise the language and send it out to members for another review.

Discussion with Political Representatives

Victor opened the discussion about inviting Jamie Eldridge, Dan Sena and Sheila Harrington to our next meeting. He proposed that we send them a memo ahead of time providing a list of the areas we wish to discuss. Our goal for this meeting offer the legislators an update on the Devens process from Harvard's point of view and ask for their feedback. Victor stressed that

we should avoid placing them in the position of appearing to favor one town over the other. Lucy and Paul created a draft memo that we can send to them ahead of time. Paul described four high-level issues that the legislature and governor will need to consider as they evaluate the eventual proposals for local governance. Paul said that his goal was to crisply describe the issues. In the event that the reader was not completely familiar with Chapter 498, he included some background information on it. He noted it was hard to be both accurate and terse and not get too far ahead of where we are as a committee. Paul said that as he thought about the timeframe for the process, he felt that while it may seem dull, the timeframe is a key factor that we need to work out with our political representatives. He created a draft timeline in which he allocated a year for local governments to gain approval, and allocated two years for the legislature to approve a bill, and 2.5 years for a transition period. This schedule exists to facilitate discussion; it is not a proposal.

Paul stressed his belief that the way to adhere to a schedule is to honor it, to make decisions that reinforce it, and to avoid compromising it. If we give ourselves more time, the process will definitely take longer.

The Harvard town boundary and Devens infrastructure are obvious topics that we need to discuss. Neither Harvard nor this committee have taken a position on whether the Devens utilities should be converted into a municipal utility, but Paul and other members of a previous committee (the Devens Economic Analysis Team) felt strongly that the utility operations should transition to municipal control. He noted that Devens has been an economic jewel and we now understand what elements contribute to that success. Unified permitting, the available utility infrastructure and proximity to Boston are all major elements that contribute to the success of Devens.

The memo finishes with a list of items that are relevant but didn't make the short list.

Lucy said that the Framework Committee is not scheduled to reconvene until June, halfway through 2021. She believes that it may take until the end of 2021 to hire a consultant. She hopes that the Framework Committee will agree to meet more often than once per month to make up for lost time. She suggested that we may want to give ourselves until 2028 to draft the report, and that we may require more than two years for the transition period. She hopes that the Legislature can change the town boundaries in the legislation rather than requiring the towns to go to Land Court. She noted that we may not know the length of the transition period until we know the elements that will make up the transition. She also noted that there are more open space parcels than just Mirror Lake. Ed said that these parcels have conservation restrictions, and that the parcels are currently owned by MassDevelopment. Lucy suggested that the memo speak of conservation land in general rather than Mirror Lake specifically.

Victor requested that we add a discussion of the ongoing role of MassDevelopment to the briefing memo, as this is an important topic that deserves to be discussed with our representatives. We need to explicitly say that MassDevelopment will remain the redevelopment agent for Devens regardless of the return to local jurisdiction. They will still be responsible for marketing undeveloped parcels, and working with businesses that wish to relocate onto Devens.

Tim noted that in his professional role working with companies that are relocating or expanding, the schedule is one of the first items to set down. He is a fan of creating a schedule for this work as well.

Select Board Letter to Dan Rivera

The committee heard a brief report from Victor and Lucy on the letter that the Harvard Select Board sent to Dan Rivera, the new CEO of MassDevelopment. See the appendix for a copy of this letter.

DJFC Delay

The Framework Committee has postponed its next meeting until June. Victor noted that we will be submitting draft documents to the Framework Committee that represent the views of Harvard.

Other Business

SusanMary suggested that Victor and Lucy prepare a short progress report for the upcoming Annual Town Meeting. Lucy suggested that we prepare a handout as well as a short oral report.

Public Comment

Jim noted that the 40 year plan for the redevelopment of Devens is moving along well. He suggested that we ask the state legislators what is their long-term vision for Massachusetts and how the work at Devens fits with this vision.

Chris asked if we would send copies of our briefing memo for the state legislators to the other towns. He also asked whether the other towns were making progress with their own Devens committees, and concerned that we keep them informed of our efforts. Lucy suggested that Victor reach out to the Town Administrators to learn the names of the chairpersons of their parallel committees and of their status.

Jim recommended that we invite Jessica Strunkin to any meeting with our legislators.

Next Meeting

Set for April 1, 2021.

Adjournment

Victor adjourned the meeting at 10:07 am. The vote to adjourn was unanimous.

Attachments

1. Draft MOA - Goals and Concerns
2. Briefing Memo for State Legislators
3. Letter to Dan Rivera

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

Draft 2/23/21

Goals for Harvard Regarding 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.
3. Sustainability: That Harvard's resumption of jurisdiction over its historic land on Devens be handled in a manner that will be sustainable, addressing the issues identified in the 2015 Burns McDonnell report, as well as Section H of the MOA.

Issues to be Addressed and Resolved:

1. Citizen Rights: Residents living on Devens are currently disenfranchised and cannot participate in decisions regarding local governance, such as schools, municipal services, budgets, and taxes. This can be resolved resumption of local municipal government.
2. The Devens Reuse Plan, Devens zoning, and one-stop permitting by the DEC need to remain in place to assure continued economic success. However, the amendment process needs to be considered: should all amendments require passage by Super Town Meeting? Should there be provision for a town to enact minor amendments to zoning within its town boundaries?
3. DEC Composition: The membership of the DEC, currently appointed by the Governor with half being outside the Devens area, should be modified to be comprised instead of four appointees from each of the Devens towns.
4. Regionalization: Utilities (electricity, water, and sewer) on Devens cross existing town lines and, as such, should each be established as a publicly or privately-owned in accordance with appropriate state law. Other opportunities for regionalizing services, in addition to the current regional dispatch, should be investigated.
5. Public Engagement: Public outreach and education on issues, possible solutions, and outcomes are critical for process to succeed.
6. Transition: Develop a transition plan to guide issues associated with: 1) the transfer of jurisdictional responsibilities and costs from MassDevelopment to the local municipality(ies); and 2) the responsibility of MassDevelopment, as the local redevelopment agency, to continue to market developable parcels under its ownership control.

Governing Options to Consider:

1. Resumption of jurisdiction by the three towns generally according to their historic boundaries.
2. Devens, in its entirety, is incorporated into one or two of the three towns.

Governing Options to Dismiss:

1. Separate Town of Devens: Scenario 2B (the creation of the town of Devens) was roundly defeated by 2 of the 3 Devens town. The direction from the Harvard Town Meeting to the Select Board was to investigate resumption of jurisdiction of Harvard's historic lands on Devens.

2. Maintain the Status Quo: MassDevelopment, as a state public-private economic development agency, is not a municipal entity under state law. As such, Devens residents have no legal standing with respect to MassDevelopment's decisions regarding Devens.
3. Regional Government/Tri-Town Government: This would not solve or, at the very least only complicate, the issue of voting rights of Devens residents and successful, local governance of the DREZ.

Harvard-Devens Jurisdiction Committee
Paul Green and Lucy Wallace
March 4, 2020

Draft Briefing Memo for Jamie Eldridge

The purpose of this memo is to briefly summarize disposition-related issues that we plan to discuss with Senator Jamie Eldridge at a future meeting of the HDJC.

This memo has been created to facilitate discussion by members of the HDJC. Items may be added, removed, combined, or modify prior to discussion with Jamie. In the interests of brevity and simplicity, we have tried to list only the top issues. An appendix at the end lists known issues that we chose not to address at this time.

Timeframe

Question: What are the prerequisites that must be accomplished before the Massachusetts Legislature can begin work on crafting Devens legislation?

Question: How much time will the legislature need?

Question: How much time should we allow to transition all elements of jurisdiction from MassDevelopment to the towns?

The parties need this information so we can craft a schedule which meets the requirements laid out in Chapter 498.

Discussion:

The following sample schedule presumes that the legislature will need a full 2 years to approve a bill to establish the future government structure for Devens, and that the communities will want to have 2 years to implement a smooth transition, and that the official transition will commence on July 1, 2033, which is the earliest such date specified in Chapter 498.

Date	Event
2021 to 2027	Parties meet and unanimously agree on a Study specifying the future government structure for Devens, as required by Chapter 498. Parties agree on a transition process.
2028	Each party formally approves the Study via their own appropriate method; consultants prepare draft legislation. Parties formally submit Study per Chapter 498.
2029-2030	Draft legislation is filed at start of 2029-2030 legislative session. Legislature approves a bill and sends to Governor for enactment before end of session.

Date	Event
2031-2032	Transition period.
2033	Local governments resume full jurisdiction over Devens and its infrastructure. MassDevelopment remains the owner and sales agent for any unsold, developable properties.

Town Boundaries

Question: Will the Legislature look favorably on a request by the parties to propose changes to the historic boundaries of the Towns? For the purpose of this discussion, assume that the parties unanimously agree that such changes are in their mutual interest and have been formally approved by the Towns.

Question: Will such proposals for changes to the historic town boundaries be acceptable if the boundaries in question are also Massachusetts county boundaries?

Question: What is the appropriate process for making these changes?

Discussion:

Members of the Harvard-Devens Jurisdiction Committee have been instructed by the Harvard Select Board to pursue resuming jurisdiction along Harvard's historic town boundaries. Members are sensitive to the requests of Devens residents not to maintain the division of the residential community between Ayer and Harvard, and are equally sensitive about the current division of the historic Vicksburg Square complex between Ayer and Harvard. We (Harvard) anticipate negotiating with Ayer over minor changes to the town boundaries to satisfy the desires of the residents and to simplify the governance of Vicksburg Square. We note that the boundary between Harvard and Ayer also divides Middlesex County from Worcester County.

Infrastructure

Question: Will the legislature consider a request by the parties to create one or more municipal utilities for Devens, jointly owned and managed by the towns?

Discussion:

Because Fort Devens was developed from farmland and operated as an Army base for most of the 20th century, its infrastructure (roads, fresh and waste water systems, natural gas supply system, electrical system, telephone system, and so forth) are contained within the historic boundary of Fort Devens and not constrained in any way by the historic town boundaries. We believe that there is no viable economic justification to rebuild these key systems along town boundaries. Thus, we believe a solution must be

found that preserves the management of this infrastructure in a single entity, which will need to be jointly managed by the towns. There is little precedent for such an entity in the state. Chapter 498 offers little guidance in this area, and Chapter 498 gives the towns no say in the disposition of the utility infrastructure. Members of this committee believe that the towns must have a strong voice in the future operation of the utilities, because the future economic viability of the Devens redevelopment area depends on maintaining high-quality, low-cost delivery of these services. We expect that a healthy debate will arise between those who believe that the utility infrastructure should be sold to investor-owned, regulated monopolies and those who believe that it should be spun off as a municipal utility, jointly owned and operated by the towns.

Many of us favor creating one or more new municipal utilities, jointly managed by the towns. We depend on you to represent our views in this area and help us craft a workable solution.

Unified Permitting

Question: Will the legislature consider a request by the parties to retain the unified permitting process for Devens, while transferring control of this process to the towns?

Question: Will the legislature consider a request by the parties to require that members of the unified permitting commission be appointed by the towns?

The enabling legislation for Devens, Chapter 498, established a unified permitting process for Devens, and created the Devens Enterprise Commission to implement this process. We believe that this process has served Devens well by gathering experts in multiple areas of land use into a single organization, by providing clients with one point of contact, and by offering a guaranteed maximum time period for obtaining a permit. Unified permitting has given Devens a significant competitive advantage over other potential sites as it seeks to attract businesses and enterprises to locate in Devens. We wish to retain this advantage, while returning control of the DEC to the towns.

Appendix

This appendix lists issues that will eventually need to be resolved, but whose discussion can be deferred for now.

Establish a new state park consisting of Mirror Lake and related “green space” areas of Devens.

Retain the Devens Reuse plan and craft a method for amending it.

Expand the Devens Regional Enterprise Zone to include the Harvard Commercial District on Ayer Road.

**OFFICES OF THE
SELECT BOARD
TOWN ADMINISTRATOR**

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February 24, 2021

Dan Rivera
President and CEO
MassDevelopment
99 High Street
Boston, MA 02110

Dear Mr. Rivera,

On behalf of the Harvard Select Board and the Harvard-Devens Jurisdiction Committee, I would like to congratulate you on your appointment as CEO of MassDevelopment!

Over the past 28 years, we have watched MassDevelopment transform Devens from a superannuated army base into a thriving commercial and industrial hub for the region. Mass Development's faithfulness to Chapter 498 and the 1994 Reuse Plan adopted by the towns of Ayer, Harvard and Shirley has been exemplary: Environmental cleanup has proceeded apace; utilities and roads upgraded; businesses attracted; jobs created; and a municipal infrastructure placed in service. We are confident that your efforts will be just as successful as you bring the project to its conclusion.

As 2032 and the required report on a "Permanent Government Structure" to the Governor and the state legislature draw near, determination of the future local government is becoming more time critical. Furthermore, the near-completed economic redevelopment and growing residential community reinforce the need for Devens to become a politically enfranchised community.

In 2017, the voters in Harvard approved a referendum asking for an analysis of and plan for the resumption of jurisdiction of the Harvard portion of Devens. This came, in part, as the result of the development of the 2016 Master Plan of the Town which included an articulation of the issues needing further study, should the Town resume local municipal control of Devens. In 2018, the Select Board created the 9-person Harvard-Devens Jurisdiction Committee and charged it with implementing the 2017 referendum.

Since 2018, the Harvard-Devens Jurisdiction Committee, comprising both Harvard and Devens residents, has met monthly (and continues to do so during the pandemic) to develop a critical path analysis that would satisfy the requirements of Chapter 498 for arriving at permanent government for Devens.

In 2019, in consultation with MassDevelopment, the Devens Jurisdiction Framework Committee (DJFC) was formed to bring together the five stakeholders (MassDevelopment, Devens Enterprise Commission (DEC) plus representatives from Harvard, Ayer and Shirley) to cooperatively develop a framework for the disposition planning process. The DJFC met monthly until a decision was made to suspend meetings because of the pandemic, but may resume in March. It is our firm belief that the DJFC should continue to work towards signing a Memorandum of Agreement (MOA) to memorialize a planning process, with the

goal of procuring a consultant to work through the analyses needed to develop a disposition scenario that is mutually agreeable to all parties.

The funds required to undertake this further detailed analysis, based on input from the consultants engaged in our own master planning process, would likely be significant. Providing the funding to assist the towns in planning for the resumption of jurisdiction should be viewed as a legitimate planning expense of the Devens project.

The urgency of this undertaking has not yet manifested itself, but that is precisely the point. We believe that it is critical that MassDevelopment put as much thought and planning into the resolution of the Devens project as was included in its inception, and we are looking forward to working with you collaboratively to that end. The analysis would result in a detailed planning document which would be followed by an implementation plan agreed upon by the three towns, MassDevelopment, and the DEC. All in all, it is not unreasonable to expect that planning and implementation could take up a considerable portion of the remaining 11 years to 2032 when a report is due to the Legislature on the future governance of Devens.

The Select Board would like to extend an invitation to meet with you at your convenience to discuss the work of the Harvard Devens Jurisdiction Committee as well as Harvard's role within the DJFC, as well as other matters. If you are able to meet with us at one of our virtual meetings, please reach out to the Select Board by contacting the Town Administrator's office.

On behalf of our Select Board and Harvard-Devens Jurisdiction Committee, we look forward to meeting with you and working collaboratively as we undertake this final phase of the Devens project together.

Respectfully,



Alice von Loesecke
Chair, Harvard Select Board



Victor Normand
Chair, Harvard-Devens Jurisdiction Committee

cc: Jessica Strunkin, Senior Vice President Devens