

**Harvard-Devens Jurisdiction Committee**  
**Meeting Held using the Zoom Videoconferencing Facility**  
**Minutes of the May 6, 2021 Meeting**  
**Paul Green, Clerk**

## **Attendance**

**Members Present:** Jane Biering, George Glazier (late arrival), Paul Green, Heather Knowles, Tim Myllykangas, Victor Normand, SusanMary Redinger, Lucy Wallace.

**Members Absent:** Kara Minar.

**Guests:** Matt Flokos (Harvard Press), Karen Davis (MassDevelopment, Assistant to Jessica Strunkin), Jim DeZutter (Member of the Devens Enterprise Commission and Harvard resident), Chris Ryan (Harvard Planner), Ed Starzec (MassDevelopment, Real Estate).

Victor Normand called the meeting to order at 9:01 am.

## **Approval of Minutes**

Lucy moved to approve the minutes of the April 1, 2021 meeting; SusanMary seconded the motion and the minutes were unanimously approved.

## **Submission to Devens Jurisdiction Framework Committee**

The committee examined each of its 3 memos that comment upon the February 4, 2021 version of the draft Memorandum of Agreement to establish a process for recommending a permanent government structure for Devens. Having previously approved its memo on Consensus and its memo on Funding, the committee focused on the memo that records Harvard's Goals and Issues, as previously reviewed on March 4, 2021. Heather noticed that a word was missing in the Citizen Rights section and Lucy agreed to provide a correction. SusanMary moved, Heather seconded, and the committee unanimously voted to approve the memo on Goals and Issues, as just amended. After some discussion, the committee agreed to have Victor work with Lucy and SusanMary to accompany the memos with a cover letter which explains that these memos are Harvard's comments on the draft MOA and that we welcome receiving comments from the other members of the Framework Committee.

## **Vicksburg Square Discussion**

Victor asked whether members felt that resolving the future jurisdiction of Vicksburg Square should precede a vote to change the zoning of Vicksburg Square.

Victor stated that the original Devens reuse plan called for 282 units of housing. Existing housing sales and new development at Devens have produced over 240 registered voters, who can vote in the Harvard Town Meeting but their votes on financial matters have no consequence to their own taxes. It is likely that seventy-five percent of housing units constructed at Vicksburg Square, under the historic town boundary lines, will lie within Ayer, and twenty-five percent will lie within Harvard. Victor predicted that development of Vicksburg Square could double the number of housing units at Devens and would probably add 100 more voters to Harvard. This situation, of representation without taxation, is odd and may well be unique in the country. He believes that a developer would want to know in which town the residents will end up

in, and the people moving into the units will also want to know how they will be governed.

Lucy said she is more concerned about taxation without representation; i.e., that they have no ability to influence their own taxes or about how Devens is run. She stated that rezoning of Vicksburg Square has failed in the past, in part because it splits its residents across town boundaries. She said that we have heard, loud and clear, that Devens residents want to have every Devens resident in the same town. She noted that another reason that previous rezoning attempts failed was due to concerns over lack of public transit options, and concerns about the impact of additional housing on the town's ability to provide services. Once disposition is settled, town meeting members will have much clearer view of the impact of rezoning on their town. She doubts that a rezoning effort at this point in time will pass.

Heather feels it is premature to rezone Vicksburg Square, both as a resident of Devens and as a member of this committee. She noted that the location of the town boundary across Vicksburg Square also affects where children are educated. She pointed out that adding a large number of residents to a town without also adding them to the tax base would be a concern to voters. She noted that the current zoning was the result of a collaborative process and favors waiting until we know which town will hold the new residents.

SusanMary agrees that it is hard to make a decision until the impact on residents is understood. She is undecided on whether rezoning should precede disposition.

George asked whether jurisdiction would be resolved soon. Victor split the issue into two parts: resolving jurisdiction and implementing the changes to jurisdiction. Victor is optimistic that the stakeholders can resolve the jurisdiction question in the short run while stating that the implementation could take a considerable amount of time. George said that the buildings are solid and part of the historic district and that no one wants to see them torn down. He believes that they should be restored to usable condition sooner instead of later, and that this desire should influence how they are used.

Paul said he doesn't know how he feels. He has participated in the previous attempts to rezone Vicksburg Square, and said that it is a really heavy lift to get citizens who are not heavily invested in the overall process to agree to make a change of this magnitude. He said that Harvard approved one rezoning proposal and turned down the other two proposals. He feels that there is a lot of inherent skepticism and inertia and fear of change. Adding the question of resumption of local jurisdiction won't make it any easier. He would like something useful for those buildings; attract an owner who would put them to good use. He would like to see a government agency or someone with really deep pockets take them on, as he thinks it will be hard for a private developer to bring them up to modern standards without subsidies. He said that all that can be saved is the external appearance and the concrete and steel; everything else will have to be redone. He is hopeful that it can be preserved; he has seen

examples of military buildings transformed into housing in the UK and they are gorgeous. So there are examples of such conversions. The process we have to follow to do that work is daunting.

George suggested that we visit the Clear Path for Veterans building [84 Antietam St], or the Learning Express building [29 Buena Vista St], as examples of successfully transforming a Devens building from the same era as Vicksburg Square. He doesn't feel it will be a huge stretch for other organizations to transform the Vicksburg Square buildings.

Victor brought the conversation back to jurisdiction. He asked if it is better to settle the question of jurisdiction up-front before a developer is involved and before people move in to the renovated buildings. Are we creating social problems that can be avoided?

Ed asked to speak, which was granted by the chairman. He asked at what point in the disposition negotiation process we would be comfortable with rezoning. Would it be when the parties achieve consensus, or when the towns approve the recommendations, or when the recommendations are implemented? Victor replied that he felt it should be when the result is certain. Lucy pointed out that 2033 is the outer limit; the parties can settle their differences sooner. She is optimistic that the parties can settle upon basic options fairly quickly once a consultant is on board. She believes that once the parties agree on a direction, marketing of Vicksburg Square could begin. She remains concerned that every time a proposal is voted down, it just adds to the baggage [of approving a future proposal]. She noted that mills in Lowell and wharf buildings in Boston have been renovated. She hopes for a mix of housing types. She believes it is important to know which town will provide services, whether they be for commercial use or residents.

SusanMary felt that we need to know Ayer's position in Vicksburg Square, since 3/4 of it lies within the historic boundaries of Ayer. If they want it, that's where the discussion will start.

Ed would like to see the rezoning done as part of the disposition vote; as the parties approve the entire proposal.

Paul said that if it will be developed commercially, he doesn't see the the need to change the town boundary because assessors are well-versed in dealing with properties that span municipal boundaries. On the other hand, if it is developed for residential use, then the question of town boundaries is always important, as it impacts not just taxes but many more aspects of life. So he feels that he can't decide whether resumption of jurisdiction or rezoning comes first without knowing whether development will be commercial or residential. Ed noted that MassDevelopment has been trying to market the buildings for commercial use forever; that's how it is currently zoned, without success.

Chris noted that there are many issues that arise when dealing with Vicksburg Square. He'd like to participate in a meeting that simply lists the issues that are important. There is more to the question that simply rezoning for residential use and raising the housing cap. He doesn't want the other issues to be forgotten. This is a complex topic. Victor said that while this committee should stay focused on jurisdiction, the consultant that we engage would be expected to delve into all of the aspects of reuse of Vicksburg Square. As a developer, he would want to know how the units he creates would be divided, or not, between towns. Chris noted that there are values-related topics that would be out of scope for a consultant.

Lucy asked SusanMary to expand on her idea of taking this question to the Framework Committee. SusanMary stressed that we need to work on this question together with Ayer. Lucy asked whether Harvard and Ayer should meet privately and then take their ideas to the Framework Committee. SusanMary felt that it will be the job of the Framework Committee to provide direction to the consultant on this huge issue.

Jane said that if we rezone before jurisdiction, our history suggests that the request will fail. So this is not a theoretical question but one for which we have lessons from history.

Victor asked if everyone agreed that the sequencing of jurisdiction and rezoning is an issue, and the unanimous consensus of the committee is that it is an issue. Heather was concerned that the Framework Committee already has many issues to deal with. SusanMary suggested that the Framework Committee form a subcommittee to look at this question. Victor agreed to discuss this with Jessica and put it on the agenda for a future Framework Committee meeting. Lucy summarized our concern as the sequencing of jurisdiction versus the addition of residential uses to Vicksburg Square. Since it is already zoned for commercial use, this committee isn't concerned about those uses.

George feels that a better outcome will be to resolve jurisdiction first, so that the issues put before of town meeting will be simpler and thus improve the chance of approval.

## **Other Business**

No other business.

## **Public Comment**

Jim DeZutter thanked Lucy Wallace for her many years of service to the town, as she is not standing for reelection to the Select Board in the upcoming town election. Members of the committee heartily agreed with Jim.

## **Next Meeting**

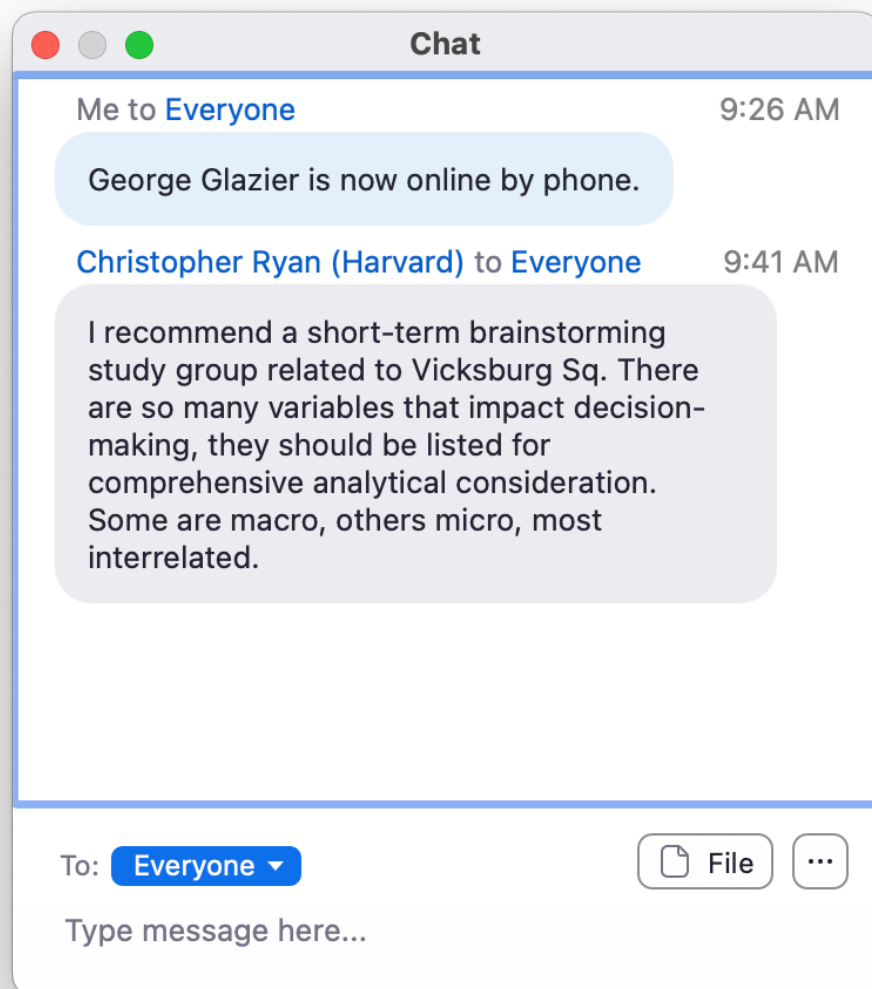
Set for June 3, 2021. (Note: The June 3 meeting was canceled; the next meeting date is July 1).

## Adjournment

Victor adjourned the meeting at 9:57 am. The vote to adjourn was unanimous.

## Attachments

1. HDJC Proposal on Consensus
2. HDJC Proposal on Funding
3. HDJC Proposal on Goals and Issues (with missing word added)



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

**Unanimously Approved by the HDJC on February 4, 2021**

**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.

**Town of Harvard  
Harvard-Devens Jurisdiction Committee  
Draft MOA: Section K – Funding for Consultant Work  
October 29, 2020**

**Unanimously Approved by the HDJC on February 4, 2021**

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  
DRAFT MOA – Section E: Initial Identification of Goals and Issues  
May 6, 2021**

**Unanimously Approved by the HDJC on May 6, 2021**

*Goals for Harvard Regarding Jurisdiction:*

1. Success: That resumption of local jurisdiction of historic lands on Devens, generally along historic boundaries, 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 through the 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.