

**Devens Enterprise Commission
(DEC) Public Hearing and Regular Meeting
Minutes January 25, 2022**

Members Present: Duncan Chapman, Dix Davis, Melissa Fetterhoff. Chris Lilly, Paul Routhier, Marty Poutry, Jim Pinard, Bill Marshall

Staff: Peter Lowitt, Neil Angus, Dawn Babcock

Guests: Paul Green, John Osborn, Victor Normand & Lucy Wallis and Rich Majore these two joined a little later all the guests are from Harvard

Members Absent: *Deb Seeley, Deb Rivera, Robert Gardner, Jim DeZutter*

Chairman William Marshall called the meeting to order at 6:45 PM

Mr. Marshall noted that this Devens Enterprise Commission Regular Meeting and Public Hearing is being held virtually in accordance with the Act (Senate Bill #2475) relative to extending certain COVID-19 measures adopted during the state of emergency. Interested individuals can listen in and participate by phone and/or on-line by following the link and phone # above. Persons with disabilities or requiring interpretation wishing to listen or participate should contact 978.772.8831 x3334. In accordance with the State's Open Meeting Law, Mr. Marshall informed all attendees that this meeting is being recorded by the Devens Enterprise Commission.

(6:51 PM) Reviewed Agenda:

(6:54 PM) Prior Meeting Minutes: The Commission reviewed the minutes from May 6th, May 25th and Dec 9th meetings. There were no edits, omissions or questions regarding the document. **The Motion to approve the meeting minutes as written was made by Mr. Davis and Seconded by Mr. Poutry;** Mr. Angus noted that we needed to vote on the minutes separately as some of the commissioners here weren't present at the meetings. **Approved unanimously by a roll call vote.**

May 6th Motion on May 6th meetings as is was made by Mr. Davis and Seconded by Mr. Poutry. The minutes were Approved unanimously by a roll call vote based on the Commissioner's attendance of this meeting.

May 25th Motion on May 25th meetings as is was made by Mr. Davis and Seconded by Mr. Poutry. The minutes were Approved unanimously by a roll call vote based on the Commissioner's attendance of this meeting.

Dec 9th Motion on Dec 9th meetings as is was made by Mr. Davis and Seconded by Mr. Poutry. The minutes were Approved unanimously by a roll call vote based on the Commissioner's attendance of this meeting.

(6:57PM) Public Hearings:

None

(6:57 PM) New Business

- **(6:58 PM) Update on Charitable Games Policy:** Mr. Angus gave an update on the Policy. When an organization is looking to hold an event they must obtain a license from the Charitable Gaming Division of Massachusetts State Lottery Commission prior to the event. When submitting the application for the Level 1 Raffle and Bazaar they must include a copy of their Certificate of Solicitation: Mr. Lilly asked what is a certificate of solicitation? Mr. Angus notes that it allows a non-profit organization to solicit for

donations. Mr. Lilly then asked who issues the certificate which Mr. Angus noted the State and Mr. Lowitt added the Lottery Commission. Mr. Marshall asked if there is a fee involved with the Certificate and Mr. Angus noted that he was not sure as it is a State requirement but there is no fee from DEC regarding the certificate. Mr. Angus did note that the only fee we take is the \$10.00 Fee for the Event Permit. Mr. Marshall asked if there are any other questions then made the motion to approve the policy change. **The Motion was made by Mr. Lilly Seconded by Mr. Davis. The motion to approve the modification to the Policy was Approved unanimously by a roll call vote**

- **(7:00 PM) 2022 Devens Seasonal Population Estimate Form – Alcoholic Beverages Control Commission**
Mr. Lowitt noted that this is part of ABCC Liquor License requirements. The ABCC is asking for a population estimate from DEC this year. Mr. Lowitt noted we are estimating our population will be 650 and this is counting Shirley Meadows, and Grant Road increases.. Mr. Angus noted that we do need a Motion to send the report to the ABCC. Mr. Marshall asked for a Motion to approve sending the Population Estimate Form to the ABCC. **Motion to approve for Ms. Fetterhoff and Seconded by Mr. Routhier. The motion to send the form to ABCC was Approved unanimously by a roll call vote**
- **(7:04 PM) Region 2 Public Health Emergency Preparedness Coalition Voting Representative Designation**
Mr. Angus lead this is topic. Mass Region 2 Public Health Emergency Coalition is a group of public health professionals out of the Worcester region. Every year the 17 communities that the Board of Health represent vote annually to make the members of this Coalition voting members for their communities. Devens has never been represented in this committee. Our Health inspectors feel it is important that this committee recognizes Devens as separate jurisdiction in this region and appoint Bridgette Braley and Kalene Gendron. Mr. Angus is looking for approval to send this letter to the Coalition. Mr. Angus then offered to answer any questions. Mr. Marshall asked for questions and there were none. He then asked for a motion to approve these two officials to represent Devens and to send a letter to the committee. **The motion was made by Mr. Routhier and seconded by Mr. Davis. The motion to name these women as our representative and to send the letter was Approved unanimously by a roll call vote**
- **(7:07 PM) Vicksburg Square Discussion:**
 - **Letter from State Legislative Delegation** Mr. Lowitt lead this topic. This letter was sent to Mr. Dan Rivera (President and CEO of MassDevelopment) and we were copied on this letter. The letter starts off by recognizing the work that has been done redeveloping Devens on behalf of the Commonwealth. Then it discusses the wide range of housing choices within Devens and urging the host communities to rezoning Vicksburg Square and have a conversation about it. “We believe these conversations should be happening sooner rather than later”. Related to that they are suggesting MassDevelopment provide financial support needed to conduct the studies needed to help assess the future of Devens Regional Enterprise zone. Then they talk about the need for affordable housing with in Devens. They also gave their support to Clear Path for Veterans urging MassDevelopment to sell them a piece of land for a \$1.00 similar to what was done with Loaves and Fishes. Mr. Lowitt wanted to make sure the commissioners knew of the letter. Then he asked if there were any questions. Mr. Marshall asked if MassDevelopment has responded to the letter and Mr. Lowitt noted that he has been told they are working on a response. Mr. Chapman asked if they are requiring 25% affordable housing of Devens while all the neighboring towns are at 10%. Mr. Lowitt responded that as part of the Devens By-laws we are required to have 25% low and moderate income and special needs housing. Mr. Marshall asked the public if they had any comments and questions. None were asked. Mr. Marshall then noted that he, Mr. Lowitt and Mr. DeZutter are part of the Devens Jurisdiction committee and this has been presented to that committee as well. Mr. Marshall noted that it was interesting that the legislators are worried about the demise of the Vicksburg Square buildings if something isn’t done in the near future.
 - **Harvard Devens Jurisdiction committee Response to DEC 11/4/21 Memo – RE: Vicksburg Square:** Mr. Marshall feels that the comments received dovetail with ours with minor differences of opinion in terms of timing and what should be done 1st. This is a project that needs to be looked at from everybody’s point of view. Mr. Lowitt noted that there is a great deal of agreement between DEC and Harvard. This letter originally was in response to a request from

Harvard asking DEC to put in writing why we support rezoning Vicksburg Square sooner rather than later. Mr. Lowitt noted there is an agreement to provide for 1st time buyers housing opportunities. Mr. Lowitt stated where our thoughts may differ is around needing to have resolution on the jurisdiction issue before rezoning Vicksburg Square. Mr. Lowitt brought up the fact that towns have been able to tax properties where town lines go through individual properties without issues. Something can always be worked out amongst cooperative bodies. Mr. Lowitt believes that if MassDevelopment listens to the legislators urging them to provide some funding to the communities to tackle these issues many of the timing components may go away. He noted past efforts brought to town meetings showing a viable path to redevelop these properties have required a combination of Historic Tax Credits and Low Income Tax Credits. The Harvard Jurisdiction Committee response to the DEC memo noted "Both of these development options programmatically exclude homeownership which would leave the Devens residential community with over 60% of all housing as rental housing." Mr. Lowitt's response to this was the Historic Tax credits might provide an opportunity for use with home ownership (Condominiums or a coop) but the Low Income Tax credit is targeted to rentals. The conclusion made by the Harvard jurisdiction committee is that 60% of Devens housing would be left as rental housing. Mr. Lowitt noted that various market studies are showing the need for housing throughout the region and specifically rental housing. Mr. Lowitt reiterated there are more areas of agreement than not. The issue as stated by Mr. Lowitt is timing. He doesn't see what legal scholars would call a rational nexus between the argument on Jurisdiction and the need to hold up the rezoning of Vicksburg Square. Mr. Lowitt is hoping MassDevelopment comes up with the funding and he also wanted to remind the commissioners that DEC has offered to match Ayer, Harvard and Shirley's dollar contributions towards the studies. But if MassDevelopment wants to pay 100% then God Bless them. He wanted to bring this back to the commission and this evening we have the opportunity to get Harvard's perspective on this as well. Mr. Marshall noted that both Mr. Lowitt and he noted that the commission has raised concerns over Vicksburg Square for a number of years and we feel strongly that the potential loss of those buildings would be a huge black eye to what is considered to be a spectacular and very successful program that has taken place at Devens. Mr. Marshall noted this is the one main element that needs to be addressed. Every day the buildings continue to deteriorate and at some point at time it could be too late. It would be a shame on all of us if we get there.

Mr. Marshall then opened up to comments from the Commissioners. Mr. Davis noted that the letter was positive and very well written and asked if the rezoning vote is brought forward to the towns if we get 3 of the 4 town to agree will that accomplish this? Mr. Marshall answered, No the zoning change vote would be from the 3 towns and our current bi-laws require unanimous approval for any zoning change. The Jurisdiction has Multiple stake holders (1) Mass Development, (2) DEC (3) Ayer (4) Harvard (5) Shirley and has to provide a report to the legislators on their recommendation for Devens per MGL Chapter 498. Mr. Marshall would recommend there be a 6th stake holder, which would comprise of the residents and businesses of Devens. They have added the 6th stake holder will be added for input when the final recommendations in 2033 is sent. No other questions from the Commissioners so Mr. Marshall handed the call over to Victor Normand (the Chairman for the Harvard Jurisdiction Committee) Mr. Normand does have comments. He does agree with Mr. Lowitt's comment that there is a great deal of agreement between DEC and Harvard and the letter written by the local Delegation. However he doesn't agree with the comment that the buildings demise is emanate. Their position is MassDevelopment has as an obligation to maintain these buildings (Vicksburgh Square) and it shouldn't take a super town meeting for them to be able to do that. He doesn't understand why MassDevelopment is reluctant to step forward and mitigate in the interest of Historic Preservation and the interest of protecting the value of these buildings. He doesn't understand why it is the responsibility of the 3 towns to step and accelerate the rezoning of development and relieve MassDevelopment of the responsibility. As that is part of their charge. Mr. Normand commented on the timing and noted that the Legislation is clear that final determination can be made at any time once the stake holders get together. Mr. Normand then

wanted to correct Mr. Marshall about his statement about the number of Stakeholder. There are not 5 votes required to submit the final vote but 4. Ayer, Harvard, Shirley and DEC with the advice of MassDevelopment. One topic that has been front and center is the Schooling for the students that will reside in Vicksburg Square. And that estimate is about 200 students. Harvard has been able to absorb the students as of now by doing away with the School Choice Option they offered but absorbing 200 students would be very difficult. Mr. Marshall thanked Mr. Normand and then commented on the comment of getting to the end of this issue and he would like to know what it will cost, what work will need to be done to get this done. Mainly who is going to pay for this? Mr. Chapman asked where the 60/40 rental home ownership split came from and Mr. Normand noted that came from basically taking the 40 units from Emerson Green and 300 units for Vicksburg Square but that doesn't include homeowner units. Mr. Marshall asked for any more comments. Ms. Wallace has 2 comments, Based on Mr. Marshalls about understanding the bottom line of retaining a consultant. She is working on a Request for Information (RFI) right now and that would get a bid for the cost for conducting a study. 2nd the super town meeting to change the zoning. It is up to the 3 towns to approve this. And she feels that if there are any questions still out there it will most likely result in a 3rd failure. Mr. Lowitt then commented he has been talking with MassDevelopment and they have noted that all the developers they have spoken with have noted that this will only be viable if it is rezoned to allow residential uses. MassDevelopment has invested some funds to protect the square. The DEC as the Historic District Commission would like to see these buildings preserved. Mr. Green agrees with Mr. Normand. He noted that he is in agreement with the residents of Devens that they want to stay in one town, whichever is selected. But he feels it is a very complicated situation and he would turn it down right now. He feels it is not a hostage situation, it is everything that has been raised by Mr. Normand and Ms. Wallace.

Mr. Marshall asked if there are any other questions or comments. None were raised. He himself asked for a clarification Comment on having the residents being of one community. Are you talking Jurisdictional Community or a sense of community? Mr. Green noted that residents of Devens have noted in the Harvard meetings that they would like to be of one town. They don't want Apt 301 to be in one town and 302 in another town. Mr. Marshalls noted that originally the Jurisdiction Committee job was to come up with recommendations and there were 5 or 6 (1) leave the boundaries as is. (2) Leave Devens as Devens Enterprise Zone (3) Leave Devens as it's own community (4) Change the various town lines to accommodate streets and buildings. Mr. Angus recognized that Mr. Normand, Mr. Green and Ms. Wallace have brought up a number of valid concerns that the Jurisdiction Framework Committee is working on. But is it also important to keep in mind that Devens impacts the towns of Ayer and Shirley not only Harvard, and they are members of the Jurisdiction Committee. DEC is the Historic District Commission for Devens and we have spoken with MassDevelopment in the past and the preservation of these building is an important historic asset for Devens and the whole region. To rebut a few of the points made earlier, about nothing being done to these building. This have been getting done they are not being left idle. The Roof has been patched, the buildings have been secured. The problem is that nobody is in the buildings they have been mothballed and that is a problem. Mr. Marshall commented on there is still a lot of work to be done and once the RFI is completed maybe that will allow the decisions and resolution on the next steps will be able to move quickly.

- **(8:06 PM) Virtual Read File – Community Updates** Mr. Angus has a couple of items that are on the website. There is a great article on the redevelopment of the West Main Street of Ayer. New shuttle service. Couple of Health updates. Mr. Angus suggested the staff to take a look at the website.
- **(8:08 PM) Social Media Minutes - Review of Twitter, Facebook Posts** Mr. Lowitt. Noted that DEC has been posting on these sites and requests that the Commissioners like and share the posts.
- **(8:10 PM) Draft 2022 Annual Report Review** Mr. Lowitt noted that the report has had a few edits since the original draft was sent out. And the changes have been noted in Yellow. The email will be sent out to the host communities. Mr. Angus noted that the project updates is just proof that it has been a busy year for DEC. Mr. Angus opened the floor to any questions and that they would like to have a motion to

approval of the report that will allow us to so send the report out. Mr. Marshall recognized the work done of producing this Annual Report. He felt that this is a monumental achievement to complete this with all the activities that have taken place. Mr. Marshall asked to make a motion to accept the Annual Report as written and to send to the neighboring communities. **The motion was made by Mr. Davis and seconded by Mr. Poutry. The motion was Approved unanimously by a roll call vote**

Old Business

- **(8:12 PM) Conflict of Interest Training Reminder**

(8:15 PM) Public Comment - Mr. Marshall asked if there were any questions or comments from the public. There were no comments or questions at this time.

(8:20 PM) Motion to Adjourn Made by Mr. Routhier and Seconded by Ms. Fetterhoff and was approved unanimously by a roll call vote.

List of Exhibits:

- Agenda
- Meeting Minutes
 - May 6th
 - May 25th
 - Dec 9th
- DEC Charitable Game Policy 2014 with 2022 Updates
- DEC Memo regarding Vicksburg Square with Harvard Responses
- Delegation LTR Dan Rivera Re_Devens Housing 12.27.21
- HDJC Vicksburg Square Rezoning Position Paper
- PHEP Coalition Letter DEC 1-25-22
- Seasonal Population 2022
- Staff Report – PHEP Regional Coalition Staff Report
- Virtual Read File 1-25-22