

**Devens Enterprise Commission
(DEC) Public Hearing and Regular Meeting
Minutes May 25, 2021**

Members Present: Duncan Chapman, Dix Davis, Chris Lilley, Robert Gardner, Paul Routhier, Robert Markly, Marty Poutry, Deb Rivera, Bill Marshall

Staff: Peter Lowitt, Neil Angus, Kate Clisham

Guests: Jim Lampke, Wendy O'Malley; Donna Bulger, Ms. Schwartz

Members Absent:

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.

Before going further Mr. Marshall noted that Debra Rivera needed to be elected as the Regional Commissioner for this meeting. **Motion made by Mr. Davis and seconded by Mr. Poutry Approved unanimously by a roll call vote.**

(6:50 PM) Reviewed Agenda:

(6:51 PM) Prior Meeting Minutes: The Commission reviewed the minutes from February 23rd meeting. There were no edits, omissions or questions regarding the document. **The Motion to approve the meeting minutes as written was made by Mr. Markley and Seconded by Ms. Davis; Approved unanimously by a roll call vote.**

(6:52 PM) Public Hearings:

(6:52 PM) Public Hearing #1: To consider regulation amendments to 974 CMR 1.14, 974 CMR 3.02, 974 CMR 4.08, 974 CMR 8.10, and 974 CMR 8.11 to comply with the Devens Municipal Separate Storm Sewer System (MS4) permit requirements for the Devens Regional Enterprise Zone. Mr. Lowitt gave a brief summary of this topic and then handed the call over to Ms. Schwartz P.E. , who is contracted by MassDevelopment to help bring the DREZ into compliance with the requirements of its recent MS4 permit from EPA. She then presented on the MS4 Compliance Permit. Which is an extension to the clean water act. In 2003 Devens wasn't considered Urbanized so MS4 Compliance was not required then. The permit is issued in 5 year cycles. DEC as the regulator and Mass Development as the property owner and owner of stormwater facilities and infrastructure have been established as the legal authority to ensure Devens maintains within the regulations. Ms. Schwartz handed the call back to Mr. Lowitt who then asked if any of the commissioners had any questions. Mr. Gardner noted he sees that the picture has silt filtration fencing to prevent run off and he would like to know if that also includes Waddles? Mr. Lowitt noted that it does. Mr. Marshall asked if there are any more questions and Mr. Routhier asked if this topic brought on by the Clean Water Act or is this an informative discussion. Mr. Lowitt responded that this is a requirement that Mass Development adopt regulation to implement the EPA Permit for our MS4 permit. Mr. Lowitt then reviewed the DEC Regulation changes that we are looking to update in order to accomplish this requirement. Commissioners asked additional questions of staff including why public health regulations are involved. Mr. Marshall asked if there are any additional questions. Mr. Lilly asked to what extent is the litigation settlement factoring into what we are doing here? Mr. Lowitt noted that it is a requirement of the settlement that this be adopted within so many days of the settlement so we are moving expeditiously and will be in compliance once the DEC votes to adopt. Mr. Lilly asked if there was anything about the agreement that dictated how the regulations

be written or just that we adopt regulations. Mr. Lowitt noted that some of the elements require that a professional engineer certify that the regulations are in compliance. Also the off-site mitigation is a requirement. Mr. Angus also noted that the greater majority of these amendments are part of the MS4 permit. But we have a lot of this already in place (Engineer Stamp) this is just putting it in actual Regulations so no heavy lifting. Mr. Marshall asked if there are any more questions and then asked the Public if they had any questions. None were asked. Mr. Marshall would like to close the hearing. Mr. Lowitt noted now that all the questions have been addressed, the Staff recommends the closing of the hearing and voting to adopt the amendments even the change on page 5 correcting the typo brought up during today's hearing. Mr. Marshall asked to make a motion to close the hearing. Motion was made by Mr. Gardner and seconded by Mr. Davis. **Approved unanimously by a roll call vote.**

Mr. Marshall than made the motion to adopt the regulations as noted, the motion was made by Mr. Gardner and seconded by Mr. Davis and Approved unanimously by a roll call vote.

(7:29 PM) Public Hearing #2: One-Day Wine and/or Malt Beverage License request from Clear Path for Veterans New England for the Devens Dash 5k Road Race event being held on Saturday June 12, 2021 . Mr. Angus took the lead on this topic. Clear Path is organizing a 5K road race with US Army. Donna Bulger is here as host to the event. Clear Path will be working with True North who is a professional organizer who will be managing the race. What Clear Path is looking for is a 1 day Liquor License for this event. They will be using their Dog Training area on their property as their service area as it is already fenced off. They will also be hiring a police detail to ensure everyone's safety and Tip Certified Servers for the event. There will also be security on site to ensure everyone is not over served. They are looking to have about 80 people so this event will not be as large as their other events. There was a meeting earlier today with Devens Recreation, Devens Public Safety, State Police, the Race Organizer and Donna to ensure the route is properly laid out. Mass Development will assist here. Mr. Angus asked Ms. Bulger if she had anything else to add. Ms. Bulger noted that Mr. Angus covered everything but she is happy to entertain any questions. Mr. Marshall asked if there were any questions; none were asked. Mr. Marshall asked if the Public had any questions. None were asked. Mr. Angus noted that with this being on their property this time the process is much simpler as their facility is open and will be used for food prep & service. They do have a Covid-19 plan in place should it be needed. Mr. Marshall requested a motion to close the public hearing. The motion was made by Mr. Poutry and seconded by Mr. Davis and the request for the 1 day liquor license was **Approved unanimously by a roll call vote.**

Mr. Angus did review the list of Conditions that have been added to the request. Motion was made to approve with the conditions added. Motion made by Ms. Rivera and seconded by Mr. Davis. Another roll call vote was taken and **Approved unanimously by a roll call vote**

(7:39 PM) New Business

- **(7:39 PM) Draper – Use Determination Request for Shirley Village Growth Parcel Lot 6** Mr. Lowitt lead this topic. DEC received a revised letter from Draper Labs late yesterday, there are still a number of questions after reviewing the letter. We have asked counsel to review the documents but there hasn't been sufficient time over the past 24 hrs to address the issues that were raised letter. So we are recommending tabling this topic until our June 29th hearing night. We will need more details on the use of the centrifuge as well as there is mention of temporary structures which will require permits as we do not allow them. So Mr. Lowitt is recommending more time to review before decision is made. Mr. Marshall has agreed to move this topic to the June 29th Meeting.
- **(7:41 PM) Property Assessed Clean Energy (PACE) Massachusetts – Introduction to program from MassDevelopment** Mr. Lowitt noted that this is a great financing program if you are looking to make energy improvements and green up your buildings. Mr. Lowitt turned this topic over to Ms. O'Malley from Mass Development. This program was active from August 2020. Devens did opt into the PACE program a few years ago but there were some delays in the rolling out of the program due to some changes in legislation. They are moving on their 1st application just a little over a year after the roll out.

Ms. O'Malley went through a slide deck giving the overview of PACE. This program is a benefit for Property Owner as well as Municipality and this does not affect the Property Owners Balance Sheet. As of 1/21 there has been \$2.07 Billion Financed for 2,560 projects. More information is located at www.massdevelopment.com/PACE there are not just the Financial details but also the Engineering details noted. The property can select their Financial Establishment that they want to work with. There are number of Eligible Properties Commercial, Not for Profit, and Multifamily (5 units or more). Ms. O'Malley opened the floor to questions and Mr. Lowitt asked if this PACE applies to vegetated or green rooms. Ms. O'Malley noted generally yes but it would mainly be based on the improvements being made. Before moving to the next topic Mr. Angus wanted to share that DEC has included PACE in the Climate Action Toolkit for Businesses to consider. As part of an energy saving.

- **(7:55 PM) Montachusett Joint Transportation Committee (MJTC) – 2021-22 DEC Appointment** Mr. Lowitt lead this noting that he and Mr. Angus have been members of the MJTC and it is time for the reappointment and Mr. Lowitt would like to request the Commission appoint Mr. Lowitt as the member and Mr. Angus as the alternate. Mr. Gardner made the motion to move the request and Mr. Davis seconded. Mr. Marshall took the vote via roll call and the motion to name the gentleman was **Approved unanimously by a roll call vote**
- **(7:58 PM) DEC Draft Meeting Schedule July – December 2021** Mr. Marshall noted the dates are noted on the website and asked if any of the commissioners have any issues with the dates noted to reach out to Mr. Lowitt, Mr. Angus or Ms. Clisham
- **(8:00 PM) Patton Well 168 Patton Road (Parcel ID #011.0-0099-0204.0)– Wetland Request for Determination Ratification of Decision to Issue a Negative Determination** Mr. Angus noted that Weston and Sampson on behalf of Mass Development has done some temporary improvements to the Patton Well site. There are still improvements needed to the PFAS system to test an Ion Exchange for the PFAS system. As there were some issues with Iron and Manganese so that is why these additional filters are being added. The plan is to have these filters Discharge into the filter bag that currently exists but they have also found another method that is safer for the wetlands that they are looking to bring in. There is a washout on the property that does still need to be repaired. Mr. Angus is noting that they are looking for approval from the commissioners to ratify the director's decision to not require a full permit based on the 4 conditions listed in the staff memo. Mr. Marshall asked if there are any questions. Hearing None he asked for a motion to ratify the director's negative determination, Motion Made by Mr. Davis and Seconded by Mr. Gardner. The motion was **Approved unanimously by a roll call vote**

Old Business

- **(8:08 PM) Regional Housing Monitoring – Update Intermunicipal Agreement** Mr. Lowitt took the lead on this topic. We are part of the collation that hires Metro West Collaborative to monitor our affordable housing units and when a new community joins the collation we need to resign the agreement. Berlin has just joined the collation. Mr. Lowitt is looking for the Commission to authorize him to sign the agreement on the commissions behalf. Mr. Marshall asked for Questions None asked so he then asked for a motion to grant Mr. Lowitt authorization to sign the agreement on the Commissions behalf. Mr. Gardner made the motion and Mr. Poutry seconded the motion. The motion for Mr. Lowitt to sign on behalf of the Commission was **Approved unanimously by a roll call vote.**
- **(8:12 PM) Budget** Mr. Lowitt added a topic, he would like to ask the commission increase the annual budget to \$85K which will allow an increase to the Shirley Accounting Line item from \$6K to \$7.5K and will allow us to look at hiring an additional planner. Which will allow Mr. Angus to bring a new person on and have them up and running before Mr. Lowitt is looking to retire in July 2023. Mr. Marshall has been speaking with Mr. Lowitt on this topic and feels with all that has being going on in Devens even with Covid that this would be the best next step to take. Mr. Marshall than asked if there were any questions. Mr. Routhier asked if Mr. Angus would be the successor for Mr. Lowitt. Mr. Lowitt noted that this is his thought but it would really depend on what the Commission decides. Mr. Marshall noted that a Succession plan will need to be formed in the near future. Motion made to adjust the budget. Motion made by Mr. Davis and Seconded by Mr. Davis. The motion to increase the budget was **Approved unanimously by a roll call vote**

- **(8:14 PM)** Mr. Lowitt wanted to update the commission that he has been talking to Mr. McGovern tracking a new commissioner from Shirley, Deb Seeley, who was on the board of Nashoba Medical Center, and Mr. Lowitt has been working to bring this forward.
- **(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 was made unanimously by a roll call vote.

List of Exhibits:

- Agenda
- DEC Regulation Changes to implement Devens MS-4 Permit
- Devens Dash Application
- Devens Dash Staff Report
- Devens MS4 compliance – Regulatory Update Presentation
- Feb. 23rd draft minutes
- Meeting schedule July – Dec 2021 Draft
- PACE Mass 2021 May PH
- RDA – Patton #3 Signed
- Staff Report 5/21
- Virtual Hearing Procedures for Display
- Draper Request for Formal Determination of Use Letter