

**Devens Enterprise Commission  
DEC Public Hearing & Meeting  
Minutes May 7, 2020**

**Members:** William Castro, Dix Davis, Jim DeZutter, Melissa Fetterhoff, Robert Gardner, Christopher Lilly, Robert Markley, William Marshall, Marty Poutry, Debra Rivera, Paul Routhier

**Staff:** Peter Lowitt, Neil Angus, Kate Clisham

**Absent:** Duncan Chapman, Jim Pinard

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This meeting was held virtual via Zoom Meeting in accordance with the Governor's Executive Order Suspending Certain Provisions of the Open Meeting Law, G.L. c.30A. s.20.

W. Marshall called the meeting to order at 7:32 AM and read the agenda. W. Marshall took roll call and went over the virtual meeting procedures. The following individuals were also in attendance: John Marc-Aurele (MassDevelopment), Mika Brewer (MassDevelopment)

**M/S/V** J. DeZutter, M. Fetterhoff to appoint D. Rivera as a voting member; approved unanimously.

7:38 AM **Public Hearing: MassDevelopment Request for Discontinuance of the following street segments in Devens:**

1. **Portions of Lake George Street from its intersection with the proposed southeasterly property line of 45 Jackson Road northerly to its original intersection with Givry Street and to confirm and earlier discontinuances of Lake George Street between said points; and**
2. **Portion of Sherman Avenue north of Antietam Street to its intersection with Jackson Road.**

W. Marshall opened the hearing and read the public notice. P. Lowitt introduced John Marc-Aurele - MassDevelopment Devens Engineering Manager. J. Marc-Aurele gave an overview of the two sections of roadway to be discontinued and provided aerial maps for reference. The discontinuance on Lake George Street is due to the redevelopment of the lot at 45 Jackson Road which will extend to the end of Lake George Street. Since they had looked at this lot they noted there may have been a gap in previous discontinuance and wanted to take this opportunity to rectify. The other section - Sherman Ave. from Antietam St. to West Main Street, has already been cut off as part of the Jackson Road improvements and we now have all of Jackson Road as a two-way street so there is no benefit to keep this portion of Sherman Ave as a public way. This portion may eventually be added to the adjacent recreation areas. MassDevelopment Board of Directors voted on February 13, 2020 to make the recommendation for these discontinuances to the DEC. Questions: R. Gardner asks if the fire and state police have weighed in. J. Marc-Aurele reported the operations staff has weighed in with no concerns. N. Angus noted there are recreation athletic fields are on either side of this portion to be discontinued on Sherman Ave. J. Marc-Aurele noted this portion will still be maintained as an access drive but it will no longer be a public way. C. Lilly asked if MassDevelopment is the owner on either side of both roadways. J. Marc-Aurele indicated MassDevelopment is the current owner except for the small section on Lake George Street. M. Brewer indicated its important to note the 3 parcels on Jackson Road in front of the Lake George Street discontinuance will be sold to one owner so there will be no issues of access. J. Marc-Aurele noted this a confirmation of previous discontinuance to close in the gaps. P. Lowitt reported the process for street discontinuance is laid out in Chapter 498 whereby the MassDevelopment Board of Directors makes the recommendation to the DEC and then the DEC votes on the discontinuance. The opposite occurs with street acceptances - the DEC approves the street through public hearing and sends the recommendation to MassDevelopment Board of Directors. Staff recommends the DEC approve both discontinuances as requested by MassDevelopment.

Public comments; none. **M/S/V** R. Gardner, D. Davis to close the public hearing; approved unanimously.

**M/S/V** M. Poutry, M. Fetterhoff to approve the discontinuances as presented by MassDevelopment; approved unanimously by roll call vote.

7:53 AM **New Business: Appoint One Commissioner to Approve Warrants While Conducting Meetings Virtually and Mylar Plan Endorsement While Conducting Meetings Virtually**

P. Lowitt reported since we are now operating remotely we asked counsel for recommendations on operations. P. Lowitt indicated if the DEC votes today, counsel will file the authorization at both Middlesex and Worcester Registry of Deeds for Peter endorse the plans and Mylars on the Commissioners behalf in an effort to avoid contact. As far as the signature to approve payables warrants we'd like to appoint one Commissioner during this time we are operating remotely. N. Angus noted we are making every effort to be as contactless as possible. R. Markley mentioned the virtual notary approval that was just passed. P. Routhier volunteers to sign off on the warrants since he is nearby.

**M/S/V** R. Gardner, C. Lilly to appoint P. Routhier to approve/sign warrants during this time we are conducting business remotely; approved unanimously by roll call vote. W. Castro asks why N. Angus was not included as a signatory and if we should add him. P. Lowitt agrees. **M/S/V** W. Castro, P. Routhier to include N. Angus as a signatory; approved unanimously by roll call vote.

8:10 AM Duncan Chapman joins the meeting.

**M/S/V** W. Marshall, R. Gardner to approve the following:

1. Authorize Peter C. Lowitt, Land Use Administrator/Director, and Neil J. Angus, Environmental Planner to physically sign Devens Enterprise Commission documents on behalf of individual Devens Enterprise Commission members reflecting official action of the Devens Enterprise Commission;
2. Authorize Peter C. Lowitt, Land Use Administrator/Director, and Neil J. Angus, Environmental Planner to physically sign Devens Enterprise Commission documents on behalf of the Devens Enterprise Commission reflecting official action of the Devens Enterprise Commission;
3. That the Devens Enterprise Commission recognizes, adopts, and accepts the provisions of G.L. c. 110G, "The Uniform Electronic Transactions Act" authorizing the use of electronic signatures on documents;
4. That the Devens Enterprise Commission, in accordance with G.L. c. 41, section 81P and section 81X, and any other authority, vote to authorize Peter C. Lowitt, Land Use Administrator/Director, and Neil Angus, Environmental Planner, to endorse plans, certificates, actions or other documents under the Subdivision Control Law reflecting official action of the Devens Enterprise Commission

Four motions approved unanimously by roll call vote.

#### 8:11 AM **Mika Brewer – MD Real Estate projects update FY2021**

P. Lowitt indicated each year we ask M. Brewer to go over the parcels in each zoning district to help us determine the likelihood of development in the next fiscal year. We have done well since we started using this tool for revenue estimates. M. Brewer noted it had been a pretty busy year prior to the stay at home order and it has continued to be steady since the order. He went through the parcels highlighting 45 Jackson Road expecting the sale to King Street Properties in June. Also 111 and 105 Hospital Road which was rezoned in 2016 and they have several buyers for those parcels and expect those to close sometime this summer. Red Tail Heights on Bulge Road has had some interested parties but they are in the early stages of their site search so not likely to close until 2021. Clear Path is also looking to acquire the parcel next to their parcel and will likely lease the parcel in the short term. He reported there is also interest in the Sherman BOQ's across from the Community Center. M. Brewer reported we had interest from a local brewery on the former theater but COVID has impacted their business and don't expect that to come to fruition until 2021. M. Brewer reported there is an 11 acre parcel on Barnum Road that a local developer is currently interested in and its likely to move forward. Little Leaf Farms is planning to purchase an additional 25,000 sq ft of land next to their existing property to help with their floor area ratio and allow them to build out their existing mezzanine space for office use. M. Brewer is looking forward to a busy summer and fall. W. Marshall thanked M. Brewer for the information and his time this morning. He asked P. Lowitt if our revenue projections will change with those updates. P. Lowitt will review.

#### 8:42 AM **US Fish & Wildlife Service Oxbow National Wildlife Refuge Draft Hunting Plan, Compatibility Determination and Environmental Assessment – Review & Comment**

N. Angus reported US Fish and Wildlife Service (USFWS) is proposing to expand hunting opportunities at several refuges in Massachusetts, including the Oxbow National Wildlife Refuge (ONWR). They currently allow limited hunting as it is compatible with the purposes for which the refuge was established (hunting, environmental education, interpretation, fishing, and wildlife viewing). Part of USFWS order is to work with state, tribal, and territorial natural resources agencies to improve access to hunting and fishing opportunities. Summary of proposed hunting changes at Oxbow NWR:

- Expand opportunities for big game, upland game, and migratory bird hunting on refuge lands.
- Open 128 additional acres to hunting.

N. Angus indicated the main concern is public safety with adding the USFWS Hospital Road area to the allowable hunting area because of its proximity to several populated areas, including Grant Road Housing (Phase 3), Shirley Commons, and the Ayer-Shirley Middle School. All hunters are still required to follow the 500ft setbacks per Massachusetts hunting regulations for occupied dwellings and 100ft setbacks for roads however the existing and proposed development in this area raises the question of public safety and potential conflicts between recreation and hunting. After discussion staff will submit comments requesting limiting hunting in the USFWS Hospital Road area due to the public safety and environmental impact concerns. **M/S/V** D. Davis, R. Gardner to authorize staff to craft a letter expressing concerns of public safety and environmental impacts; approved unanimously by roll call vote.

#### 9:08 AM **Old Business: FY2020 and FY2021 Budget Clarifications**

P. Lowitt indicated there were several items to clarify after the last meeting so that we have ample information and back up for the DEC budget amendments. P. Lowitt reviewed the memo regarding the amendments.

**M/S/V** J. DeZutter, R. Gardner to amend the FY2020 to increase the budget by \$50,000 for a total FY2020 Budget \$807,324; approved unanimously by roll call vote.

**M/S/V** C. Lilly, J. DeZutter to amend the FY2021 to increase the budget by \$5,000 for a total FY2021 Budget \$842,482; approved unanimously by roll call vote.

P. Lowitt noted we will be sending around a survey regarding our Climate Action Plan later today. Please take the time to complete the survey.

9:14 AM **Public Comment:** None

W. Marshall wished all a Happy Mother's Day. P. Lowitt noted we do not currently have any items for the May 26<sup>th</sup> agenda, we will send notice if we cancel.

N. Angus reviewed the COVID19 update on the DEC website and noted this is updated weekly so please direct any inquiries to the DEC website.

J. DeZutter asked about the Devens Jurisdiction meetings. P. Lowitt noted they have been postponed but he will ask Jessica Strunkin.

9:17 AM **M/S/V** J. DeZutter, R. Gardner to adjourn, approved unanimously.

**List of Exhibits –**

- Agenda
- MassDevelopment Letter from J.Marc-Aurele 4/8/20 RE: Discontinuance of Portions of Lake George St. & Sherman Ave.
- Memo from Peter Lowitt dated 5/5/20 RE: Street Discontinuance
- Parcel Map RE: Lake George St. portion discontinuance
- Parcel Map RE: Sherman Ave portion discontinuance
- Letter from J. Lampke 5/3/20 RE: DEC Electronic Signatures
- Certificate of Votes Authorizing Signatures
- Devens Parcel Listing by Zone 4/25/20
- USFWS Oxbow Hunt Plan News Release
- DEC Staff Hunting Plan Expansion Memo 5/5/20
- Memo 5/5/20 RE: FY2021 Budget Clarifications
- May 5, 2020 DEC COVID-19 update
- Memo from Neil Angus dated 5/5/20 Re:USFWS Oxbow National Wildlife Refuge Hunting Expansion Plan