

RECOMMENDATIONS

PLANNING, DEVELOPMENT AND REGULATION AT DEVENS

According to the Devens Reuse Plan, there were five major reasons to prepare the Plan:

- Avoidance of adverse fiscal impact on the towns
- Orderly redevelopment
- Accelerated job creation
- Environmental protection
- Strong local control of development

The plan and the zoning bylaws were prepared through a public process that included community workshops and task forces. The Reuse Plan and Bylaws were approved at a Super Town Meeting, although there is some community opinion that the approval process was unduly rushed, and the Plan states that “substantial changes to the Reuse Plan and Bylaws cannot be made without further town meeting approval.” The Plan’s purpose was to provide “the communities with the ability to determine the future of Devens, while leaving the cost of implementation to the state.”¹

However, the unique and unusual nature of the Devens base redevelopment structure and process contains contradictions that seem destined to create tensions with the host communities. As a quasi-public agency whose mission is promoting economic development, MassDevelopment is designed to act with more efficiency than most government agencies. It was chosen to lead the redevelopment of Fort Devens because it could act in ways that would have been difficult, if not impossible for the host communities. However, it is common for quasi-public agencies and authorities to have contentious community relations because the lack of direct accountability that makes them able to act with agility also can make them less sensitive to community issues.

By the same token, the broad powers given to the DEC have also resulted in complications. This is particularly true in terms of interpretation of what would constitute a “substantial” change to the Reuse Plan or the Zoning Bylaws. The Zoning Bylaw in Section XV states that DEC can make minor revisions to the Reuse Plan and the Bylaws without consulting the Towns or MassDevelopment. Minor revisions are then clearly defined as typographical, clerical errors, renumbering, or tightly described changes to the zoning map. All other proposed revisions to the Reuse Plan and Bylaws are characterized as “substantial” and “requiring the approval of the Towns and the Land Bank [MassDevelopment].” At the same time, however, in Section I.C.3 – Commission Regulations, the DEC is directed to “develop and adopt a comprehensive and detailed set of land-use regulations....including, but not limited to, site design standards, subdivision control standards, watershed and water resource protection standards, standards and procedures required to ensure full compliance with state wetlands protection laws, and historic district regulations.”

Neither MassDevelopment nor the DEC have formally proposed changes to the Reuse Plan or the Zoning Bylaws. However, as noted earlier, many of the new regulations that the DEC is currently proposing would usually be handled as zoning bylaw amendments in most towns – although the Bylaws do provide for regulations to encourage “innovative development” (Sec. III.F.).

More troubling to many is MassDevelopment’s inclusion of a potential housing component in the “downtown Devens” RFQ sent to developers. Residential uses are not permitted in this zone under the current Bylaws, regardless of whether the housing is envisioned

¹ Devens Reuse Plan, pp. 5-6.

as additional to or part of the 282-unit housing cap currently in place. The only mechanism for including housing without revision of the Bylaw and the Reuse Plan would be use of Chapter 40B, despite the fact that the Devens regulatory system already includes the salient features of Chapter 40B – 25 percent affordability and unified permitting. During the development of the Reuse Plan, the question of how much housing should be permitted at Devens was one of the most sensitive and debated issues. It is difficult to argue that a change in the number of housing units or their location at Devens would not constitute a “substantial” change to the Reuse Plan and Zoning Bylaws.

The question of housing is central to the emergence of community at Devens. Now that Devens has residents as well as commercial property owners, it has become a community, not just an industrial and business park. The military populations that once lived at Devens were part of a community - the Army - that gave them a sense of identity within a physical place organized to reflect that military community. Once again there are people living at Devens. At present, they vote in Harvard – for local officials who have no control over or responsibility for their residential area or the school system that educates their children. They sign a “disclosure” form that spells out the existence of a separate Devens School District with education of children in Shirley and Ayer. The Town of Harvard has invited Devens residents to join its Five-Year Review Committee and other committees, and a number of Devens residents attended the public meeting associated with Phase II of the review. Their presence changed the conversation about Devens in significant ways and they can be expected to take on a more prominent role in discussions about the future of Devens

The experience of the Disney Company in its creation of the New Urbanist town of Celebration, Florida, provides some thought-provoking parallels. Celebration in reality is not a town at all – it is a development district within a Florida county, with no elected town government. Disney's subsidiary, the Celebration Company, owns commercial property and the many residential property owners are members of an owners' association that collects fees for privatized municipal-style services and maintenance of common areas. Town “government” consists of a council composed of members of the homeowners' association and the Celebration Company, but the company effectively has veto as long as it owns any property in or adjacent to Celebration. The first conflicts in Celebration occurred over the school system. Because there was no democratic process to resolve the differences in opinion about the school curriculum and other matters, the company treated the debate and conflict as a public relations problem, and some of the school critics left the town.²

Chapter 498 established a system that makes MassDevelopment a landowner and landlord, a developer, a planner, a collector of services fees, and an “acting” municipal executive. The DEC is the regulator, nominally independent of MassDevelopment, but created, organized and funded to facilitate MassDevelopment’s development mission at Devens. In municipalities that have or desire redevelopment, the planning and community development staff typically work for the executive, provide staff support for the regulatory boards and commissions, and prepare and supervise planning studies. Generally speaking, the municipal planners are not also the landowners and developers. The role of public planners is to promote and safeguard the public interest – which clearly includes economic development – and assure the creation a public realm that is functional, harmonious, attractive and highly-valued. The era of top-down planning has long passed, and municipalities today undertake planning with community or neighborhood advisory committees. As the towns, MassDevelopment, DEC and Devens residents embark on planning for the future jurisdictional destiny of Devens, the “planning culture” of Devens must be modified in significant ways.

In its role as real estate promoter and developer, MassDevelopment needs confidentiality in its negotiations with potential buyers, but as the municipal executive of Devens it will

² Michael Pollan, “Town-Building Is No Mickey Mouse Operation,” *The New York Times Magazine*, December 14, 1997.

increasingly need to systematically include community viewpoints – from Devens residents as well as the host communities – in planning and development decision-making. This is also true of the DEC, which in recent years has already made its decision-making processes and planning efforts more open and transparent.

At the same time, the Towns must become more systematic and organized in their approach to Devens and its future – and the Five-Year Review has been instrumental in encouraging the JBOS to take a more active role. Because of the small size of the town governments and limited paid staff, the effort required to organize and sustain this more organized approach may seem beyond the capacity of the JBOS. But without this effort, the JBOS will always remain in a reactive role. The more the JBOS can effectively identify and advocate for the towns' desires and interests in the ongoing and future development of Devens, the more likely it is that the Towns will have better communications and outcomes with MassDevelopment and the DEC. MassDevelopment in particular needs to become more inclusive in its decision-making, but the JBOS also need to articulate more clearly what they want to have happen at Devens.

MassDevelopment and the DEC will continue to pursue the goals they believe are appropriate for Devens. *This is an important moment as questions about housing and community character will be decided soon. The JBOS must exercise leadership to create a space for more active participation in shaping Devens development and preparing for future disposition.*

RECOMMENDATIONS FOR THE JBOS

PROCESS AND PROCEDURE

There are three fundamental procedural results of the Five-Year Review process:

- The JBOS must take steps to create a more structured and active participatory role for itself and the towns in the ongoing development of Devens.
- The JBOS must take steps to begin disposition planning with MassDevelopment and DEC.
- The JBOS must secure staff and funding support for these activities.

Creating a More Active Participatory Role for the JBOS

As noted elsewhere in this report and in the Phase I report, JBOS must activate the participation and advisory mechanisms provided for in the Reuse Plan and Bylaws, create systems for reporting and accountability, and identify and clearly articulate its viewpoint to MassDevelopment and DEC.

- ***July 2002*** - Notify MassDevelopment that JBOS has established Transportation and Housing Committees, as provided for in the Reuse Plan, in addition to the Open Space Committee. Ask appropriate state and regional agencies and nonprofit organizations to be members of these committees, as well as representatives from each of the Towns, Devens residents, DEC and MassDevelopment
- ***July 2002*** - Provide the Committees with a preliminary work agenda (see the next section of this plan for recommendations) and ask for quarterly reports from the committees to the JBOS. In the case of some issues on the work agenda, the Committees should be explicitly directed to work together, in order to insure that there is sufficient integration of knowledge and approaches.

- ***July 2002*** - Formally ask MassDevelopment to provide staff support for these committees to assist volunteer chairs from the communities in scheduling and announcing meetings, providing information and documents, etc.
- ***July 2002*** - Begin negotiations with MassDevelopment on an ongoing funding scheme to support coordination and technical assistance to the JBOS in Devens-related activities. (See below.)
- ***By September 2002*** - Establish for each town a liaison to the JBOS and the DEC who will flag any DEC decisions within 30 days for which the towns should request a reconsideration of the decision, as provided for in the Zoning By-Law. (Harvard has made the appointment; Ayer has asked the Planning Board to delegate a member for this task; Shirley has not made the appointment.) Ask DEC to send project permitting submission packages, meeting notices, and other DEC documents to the liaisons. Ask each liaison to send a report to the town manager every month before the JBOS meeting – even if the report is a simple “nothing to report.”
- ***By September 2002*** - Strengthen the relationship between the JBOS and the DEC:
 - Ask DEC members from the town to meet quarterly with the JBOS
 - Ask DEC members to give a short report on DEC activities at Town Meetings and for inclusion in Town Annual Reports

Starting the Disposition Process

Throughout the Five-Year Review process, members of the review committees and of the wider public in the towns have often expressed their discomfort about making interim decisions about Devens when they do not know whether Devens will ultimately return to jurisdiction of the towns, be administered by a joint entity, or become a separate municipality. The Town of Shirley, by taking steps to acquire for municipal uses land currently under MassDevelopment jurisdiction at Devens has implicitly moved in favor of regaining jurisdiction over the area of Devens within its historic boundaries. Ayer, as the town with the closest economic ties to Devens when it was an army base and the town with the largest business sector, is also disposed toward reasserting jurisdiction, though with significant concerns about funding commitments to support development potential of the Ayer North Post and remediation of contaminated areas. The majority of Devens is located within the boundaries of Harvard and although a general preference for return of jurisdiction also prevails there, the discussion has included a desire for certainty about the potential benefits and costs to Harvard of industrial and commercial tax base and new residential development, as well as the concerns of particular neighborhoods that fear potential traffic impacts of opening road connections to Devens. Devens residents who expressed their views at the May 2002 public meeting tended to want to take a wait and see approach.

It is the view of the consultant team that it is impossible to have certainty about all the potential impacts of a return of jurisdiction to the towns, but that there is sufficient sentiment in favor of a return of jurisdiction to support a statement by the JBOS to the DEC and MassDevelopment that *in principle*, the towns would like a return of jurisdiction. By making such a statement, reviewing ongoing issues and beginning a disposition process with that goal in mind, the towns will be in a much better position to make a final decision when the time comes.

By taking this position, the towns can act to promote changes that might make a return of jurisdiction function better and resist changes that might preclude a return of jurisdiction. They will have a standard by which to evaluate new information and new proposals: How would this information or this proposal advance the return of jurisdiction? What would the likely benefits or costs be to the town if it were to regain jurisdiction – not just financially but also in terms of community values and quality of life? Such a position also does not preclude the possibility that even with a return of jurisdiction, the towns might want to create joint management or

administrative arrangements for infrastructure, recreation, permitting, or other activities in the former Devens area.

The study required by Chapter 498 must include an analysis of several potential governmental structures for Devens. By making a statement in principle for return of jurisdiction, the towns are not giving up anything, if at the end, they conclude that they do not want to accept jurisdiction. They are simply making sure that return of jurisdiction remains a completely live option.

- **By September 2002** - Draft and send a letter to MassDevelopment and the DEC containing
 - A statement that in principle the towns' goal is to have a return of jurisdiction over Devens lands to the towns
 - An invitation to begin a process to prepare the disposition and governance study required by the legislature
- **By September 2002** - Provide MassDevelopment and DEC with the proposed scope of a disposition planning process (see a later section of this document) and consider allocating some town funds for this purpose, even a symbolic amount, to signal and reinforce the fact that under Chapter 498 the towns are equal partners in carrying out this study

Securing Funding for Devens-Related Activities

In the Phase I Report of this Tri-Town Five-Year Review, it was recommended that the JBOS seek an ongoing source of funds for Devens-related activities. It was suggested that the JBOS request a per square foot addition to the Municipal Service Fee when the July 2002 changes occurred. Because Chapter 498 explicitly states that the Towns are not to receive taxes from Devens while it is under MassDevelopment jurisdiction, this remedy might require legislative action. MassDevelopment rejected this idea and the JBOS did not pursue any other options.

One alternative is to seek a regular appropriation of MassDevelopment funding for JBOS Devens-related activities plus a small appropriation from each town. There is always a concern that the source of funding will inevitably control the outcome, but there are ways to reduce this concern. Even a symbolic amount of town funding would be important to asserting the JBOS as controlling entity. Moreover, it is not unusual for development entities – public or private – to provide arms-length funding through another entity for the organization and activities of their community interlocutors. For example, MassHighway has provided community groups with funding to hire their own advisors on Central Artery issues. Similarly, developers and institutions have provided funding to the Boston Redevelopment Authority, which uses it for neighborhood planning processes. If the towns together provided \$15,000 a year and MassDevelopment provided \$35,000, the JBOS could hire a half-time planner/administrator for Devens-related issues as well as independent technical assistance on issues such as disposition planning. The staff person's role would be to give organizational and staff support to the JBOS and its Devens Committees, to attend DEC and MassDevelopment meetings and public hearings, to manage consultants, to prepare reports on Devens issues, and to prepare grant proposals, if needed.

A third alternative is to ask for permanent MassDevelopment organizational staff support for JBOS Committees on Devens issues and prepare specific funding requests for technical assistance needs. This alternative has the disadvantage that the JBOS would not have a staff person with the responsibility of preparing and administering technical assistance requests, with the result that there would undoubtedly be a time lag while the request was prepared by someone with many other responsibilities and then MassDevelopment could take time to consider it and reply to the JBOS.

- **By October 2002** – Negotiate with MassDevelopment for ongoing annual funding of JBOS Devens-related activities. The funding would be used to hire a half-time planner/administrator and to give the JBOS independent technical assistance.

SUBSTANTIVE ISSUES

As a result of the Five-Year Review, there are a series of substantive issues that need to be addressed. Immediate issues include:

- Potential changes to the amount and location of housing permitted at Devens and agreement on standards for Phase II and any other potential housing.
- The character of the Business Services Zone as a retail and services area and as it relates to other parts of Devens and to the towns.
- Proposed changes to the Devens regulations

These issues must be addressed as quickly as possible because MassDevelopment and DEC have taken steps on these issues.

Issues that will require more time, but that can include initial steps starting this fall are the following:

- North Post Master Plan
- Open Space protection status
- Open Space zone review and potential changes
- Open Space and Recreation Plan Update
- Transportation Demand Management planning and potential community benefits
- Disposition Planning

Revision of the Reuse Plan and the Zoning Bylaw

There are several issues that could require revision of the Reuse Plan and the Zoning Bylaw: more housing, housing in different zones, clarifying restrictions on structures in open space zones, possible adjustment of open space boundaries, changes to uses in the Shirley and Ayer North Posts, as well as other zones that do not yet have development plans.

It is the view of the consultant team that the question of additional housing is the most pressing. Although the open space issues could be resolved through zoning changes, other options, such as changes in regulations and transfer to nonprofit organizations could be less cumbersome and have the desired impact. Throughout the review process there has been no indication that the towns want anything but more sure and certain protection of open space and implementation of the trails plan and other passive recreational plans. These goals could be attained in ways that provide more certain benefits than open space zoning. In some of the other cases, appropriate changes will probably not be clear until new and more detailed planning is completed – as would be the case with the Shirley and Ayer North Posts.

The recommendation here is that the JBOS and the towns pursue the organizational and process steps proposed in this report before seeking a broad revision of the Reuse Plan. A more systematic approach and a less reactive posture by JBOS may enhance the possibility of improved communication with MassDevelopment and the DEC. Both agencies are increasingly recognizing that they cannot operate unilaterally. Through structured discussions based on the procedures and work plans suggested in this report, the towns and the agencies may be able to agree on proposed revisions to the Reuse Plan and the Zoning Bylaw that they could jointly bring to town meetings.

Issues for Immediate Attention – Summer/Fall 2002

HOUSING

MassDevelopment and DEC are continuing to move forward to fulfill their missions at Devens as they see it. During the next six months, decisions affecting housing at Devens will be under discussion and the communities and Devens residents should be at the table where those decisions are made.

The items that require immediate attention by the JBOS are listed below. It is recommended that the JBOS use the committee structure it has begun to set up to have the Housing Committee study these issues during the summer and fall and make recommendations to the JBOS and the towns in mid-fall. Recommendations on the composition and activities of the Housing Committee follow this section.

“Downtown Devens” RFQ and housing

The RFQ mentions the potential for housing in a zoning district where it is currently prohibited. It has been suggested that MassDevelopment would encourage the use of Chapter 40B to bypass the housing prohibition in this zone.

Issues:

- Change in residential zoning as a “substantial change” in the Zoning Bylaw and therefore requiring town approval
- Potential benefits of having housing in this zone to support retail – as part of the Phase II housing quota or as additional housing?

Recommendation:

- A change in zones permitting housing and the number of housing units should be considered a “substantial change” requiring a change in the Reuse Plan and the Zoning Bylaw.
- Inclusion of housing in the business services zone – in addition to the currently permitted 282 housing units -- is a good idea. Properly designed, it will help provide the pedestrian-oriented ambience desired, give market support for more diversity of businesses, help connect existing housing areas, and potentially attract Devens workers as residents. The region’s market can support the housing now, as it could not in the early 1990s. Although many communities fear new housing because it often costs more in services than it pays in taxes, it is important to remember that the industrial and commercial development at Devens (particularly if there is a split tax rate, as is the case in Ayer) will offset service costs.

DEC proposed regulations and Phase II housing standards and character

DEC has proposed new regulations, characterized as at the “75%, close to finished” level, to regulate the character and site design of new housing. During the summer and fall, MassDevelopment will be developing standards and an RFP for a developer or developers to build the Phase II housing. The JBOS Housing Committee should work closely with DEC and with MassDevelopment on the regulations and the standards to be developed for Phase II housing.

Issues:

- In Section 5.03 – Residential Development, DEC is proposing that all new residential development at Devens, including the Phase II housing be created according to “new urbanist” principles.

- Phase II housing development can be available as early as January 2003.

Recommendation:

- Design standards to require compact, pedestrian-friendly neighborhoods that are compatible in design and scale with the existing housing on Devens are a good idea, as are many of the other elements of these regulations, such as conserving natural features and vistas. However, the extremely prescriptive nature of some of the regulations, may have unintended consequences or result in banal fulfillment of the rules. Performance standards that identify the preferred outcome without prescribing the particulars can give superior results.

JBOS Housing Committee

It is important that the JBOS Housing Committee begin meeting and considering Devens housing issues as soon as possible. The work program for this committee will clearly extend beyond Fall of 2002, but it is essential that the Committee begin working with DEC and MassDevelopment to shape the next phase of Devens housing as soon as possible.

Membership. In addition to representatives of the Towns and Devens residents, MassDevelopment, and DEC, this committee would benefit from having members with expertise in the market-rate housing market in the region and in affordable housing.

Activities. This committee should make recommendations to the JBOS on housing issues, including additional housing at Devens. It should develop criteria for the character of the Phase II housing and for any additional housing at Devens, including criteria for potential Chapter 40B projects.

- Work with the DEC on appropriate standards that developers must address in the proposed residential overlay district regulations
- Work with MassDevelopment on expectations for the Phase II housing
- Develop standards for potential additional housing with attention to the following:
 - location near to existing housing to reinforce critical mass for neighborhood community
 - pedestrian links to recreational amenities, existing and future trails, retail areas, and schools
 - life cycle housing (diversity of unit types to accommodate singles, families, empty-nesters)
 - scattered site affordable housing indistinguishable from the market rate housing
 - visual and noise buffering from industrial sites
- Work with affordable housing organizations such as Citizen's Housing and Planning Association (CHAPA) to develop appropriate design and other guidelines for affordable housing

BUSINESS SERVICES ZONE

The development of retail and services in the Business Services Zone is important to residents of Devens, the towns, and Ayer and Shirley merchants. Because MassDevelopment has already issued an RFQ for expressions of interest in developing the zone, it is important that the towns and Devens residents have a role in shaping the development of this area. Suggested membership and activities for an ad-hoc Downtown Devens Committee follows this section.

Issue:

- The RFQ provides somewhat contradictory guidance on what is desired in this zone, yet how it is developed will have a big impact on the character of Devens as a place to live and work.

Recommendation:

- The JBOS should activate an ad hoc Downtown Devens subcommittee to provide MassDevelopment and DEC with JBOS input on the future development of this area while MassDevelopment is selecting and working with a developer. A representative of the Devens Homeowners' Association should also be included. Among the issues to be considered should be phased, more compact development rather than low-density development of the entire zone, and path and bikeway connections to business, residential, and open space areas on Devens

JBOS Ad Hoc Downtown Devens Subcommittee

Membership: One representative from each of the other committees, from the Devens Homeowners' Association, from merchants in Ayer and Shirley, and from the Ayer Community Development Department, taking care to insure that all three of the towns have representatives on the committee.

Activities:

- Work with MassDevelopment and DEC to develop a coherent idea of what is possible, both physically and economically in this area in the short and longer term
- Provide MassDevelopment with the design standards that the community would like to see met in any Downtown Development, particularly in terms of connections to other parts of Devens, pedestrian-orientation, parking locations, and so on.

OTHER PROPOSED REGULATIONS

DEC's 75% draft of proposed new regulations covers changes on a variety of issues, from stormwater management to sign control and historic district regulations.

Issue:

- DEC is seeking comment and the JBOS should review the regulations carefully.

Recommendation:

- The JBOS should ask one member of each town's Planning Board to review the proposed regulations and report back to the JBOS.
- The JBOS should the DEC director to provide a summary of the purpose of each section of proposed changes and state why the change is superior to the existing regulations. The JBOS should also ask the DEC director to explain if and how the regulations will provide better outcomes on issues about which the JBOS and town residents have been concerned:
 - preservation of open space areas and compliance with open space and trails plans
 - traffic impacts and mitigation of the proposed development in Devens and in the towns
 - maximum preservation of existing topography, landscape features and vegetation
 - stormwater management to protect natural resources and landscapes
 - landscape standards and buffers
 - monitoring during construction and post-construction
 - incentives to conserve water, electricity, wastewater capacity and other resources
 - encouragement of existing industrial businesses to improve and upgrade properties

Issues for Consideration Fall 2002 – Spring 2003

North Post Master Plan

In Fall 2002, the JBOS and the Boards of Selectmen of Ayer and Shirley should formally request that MassDevelopment fund a detailed environmental study, economic assessment and master plan of the Shirley and Ayer North Post areas. As the MassDevelopment Five-Year Review stated, this plan should be prepared in coordination with the JBOS and the two communities. A North Post Planning Committee should be set up including, at a minimum, representatives from the following:

- Ayer, Shirley, and Harvard Boards of Selectmen
- Ayer Community and Economic Development Director
- Ayer, Shirley, and Harvard Planning Boards
- Ayer, Shirley, and Harvard Conservation Commissions
- JBOS Devens Open Space Committee
- JBOS Devens Transportation Committee
- US Fish and Wildlife Service – Oxbow National Refuge
- MassDevelopment
- DEC

This committee should be involved in developing and approving the scope of the study; community representatives from the committee should participate in selection of consultants; and the committee should meet regularly with the consultants to discuss the emerging study results and alternatives and should participate in review of the draft and final report. The scope should contain, at a minimum, the following:

- a thorough environmental inventory and assessment of both parts of the North Post, building on the Vernal Pools study
- recommendations on areas that should be preserved because of environmental sensitivity and scenic landscape character
- options and appropriate locations for development
- market analysis for development sites, estimated jobs and tax revenues that could be created
- assessment and recommendations on the transportation and other infrastructure improvements necessary to unlock development potential, and their cost
- estimated infrastructure impacts of development and potential mitigation
- traffic study of North Post area under various reuse concepts to evaluate transportation impacts, needed mitigation, and preferred options
- funding sources for protection, infrastructure, and marketing costs

JBOS Devens Committee Work Programs

The Reuse Plan provided for three ongoing committees to include representatives from the towns: Open Space, Housing, and Transportation. Of these, only the Open Space Committee was operating through 2001. The JBOS have now created the two other committees and all three of the committees are expected to have a more active role in the future, with a work plan and regular reporting to the JBOS. These committees are an opportunity for the Towns, the new Devens residents, MassDevelopment, and DEC to work together on the remaining planning and implementation elements of the Reuse Plan. The role of the committees would be to serve as a sounding board and advisory group to oversee, review, and help set the direction for future activities.

Activation of these committees would provide an opportunity to inaugurate a new, more inclusive, yet structured “planning culture” at Devens that can serve as the foundation for disposition planning. The committees should have a chair and vice chair who are community

residents, meet on a regular schedule, with additional meetings if needed for specific issues, and the town representatives should report at least every two months to the JBOS on committee activities. MassDevelopment should formally be asked to provide staff support for these committees to work with the committee chairs on meeting schedules, announcements, and reserving meeting space and to provide information. Even if MassDevelopment declines to share planning information with the committees, the committees should still develop criteria and standards to the best of their ability, to communicate expectations to MassDevelopment and DEC. Recommendations for the make up and the work plan of the Housing Committee was given in the previous section because JBOS input into housing concerns must occur as soon as possible. Recommendations for the Open Space and Transportation Committees are given below.

Open Space and Recreation Committee

Beginning in fall 2002, the Open Space and Recreation Committee should begin a program focusing on the following issues:

- Open Space protection status
- Open Space zone review and potential changes
- Update of the Open Space and Recreation Plan

Membership. The Open Space Committee, in addition to its present membership, should include a Devens resident and representatives of the Recreation Commissions of the three towns, and if possible, local or regional land trusts.

Activities. Although this committee has been in operation and overseeing the open space implementation of the Reuse Plan, it could take on a more active role.

- The Committee should advocate for changes that assure more permanent protection for the land zoned for open space and participate in the planning efforts for open space and recreational amenities:
 - Draft a letter for the JBOS to request an opinion from the state Attorney General's office on whether lands zoned "Open Space and Recreation" at Devens are covered under Article 97 of the state constitution
 - Identify those areas of the open space zones where no structures, except those directly in support of the open space purposes, may be permitted and promote the permanent protection of those lands through transfer to a land trust, a town conservation commission, or a governmental parks or environmental agency.
 - Identify those open space areas where limited cultural or municipal uses may be acceptable.
- Identify areas where open space zone boundaries may need adjustment.
- Work with DEC to incorporate zoning language to insure that open space zones include clear language limiting the size and footprint of structures built as accessories to open space and recreational uses and bring this language through the JBOS to town meetings.
- The Committee should serve as an advisory or oversight committee when consultants are engaged to prepare open space plans or designs. This means that the Committee should be regularly consulted at specific points in the planning process – development of the scope, discussion of alternatives, review of draft documents, etc.
- Preserve areas where sensitive habitat and environmental resources have recently been identified. Options include:
 - change in the zoning by-law open space zones – requires approval of MassDevelopment and the towns
 - seek conservation restrictions

- seek transfer to nonprofit local or state conservation organizations or conservation agencies
- Identify open space resources desired for ownership by the Towns, individually or jointly.
- Identify open space resources appropriate for other government or nonprofit organization ownership.
- Identify potential needs and costs for joint recreation administration (e.g. event scheduling, maintenance).
- Start discussions with Devens Recreation about long term arrangements about dedicating some fields to Town use in return for Town assistance in maintaining fields or trails.
- By fall 2002 request that MassDevelopment assign resources to begin the update of the 1996 Open Space and Recreation Plan so that Devens remains eligible for state open space and recreation funding. The JBOS Open Space Committee should function as the oversight committee for this plan update. Among other elements, the update should include:
 - assessment of the extent to which implementation and management goals and objectives were met in the areas of Conservation, Preservation, Intensive Use, and Linkage
 - evaluation of whether these categories continue to be appropriate
 - identification of needed changes
 - development and communication of a comprehensive implementation and management plan for passive and active resources, identifying long-term responsibilities and funding mechanisms.
- Encourage Devens and the town's Recreational Commissions to organize a Tri-Town Devens road race to promote knowledge of Devens open space resources by residents of host towns.

Transportation Committee

Transportation issues, though not currently on the front burner, are the controlling element in the MEPA certificate granted to the Devens Reuse Plan. The towns did not have an opportunity to participate in shaping the scope and review of the 2000 Traffic Report. Activation of a Transportation Committee will provide the towns with more opportunity to seek mitigation of traffic impacts and potential benefits for residents of the region.

Membership. In addition to representatives from the Towns, MassDevelopment (DPW staff as well as community relations staff), and the DEC, this committee should also include a Devens resident, and representation or formal liaison from the Transportation Management Association (when formed), the MBTA, the Regional Transportation Authority and from the regional transportation planning staff (Montachusett Regional Planning Commission).

Activities. This committee's activities should include the following:

- Review of traffic and transportation studies
- Input into scoping of future transportation studies including
 - Recalculate uptake of land for development and traffic generation to adjust and refine the timeline to buildout or to capping of development. Recalculate uptake of land for development and traffic generation to adjust and refine the timeline to buildout or to capping of development.
 - Establish procedures to direct more traffic to use the Jackson Gate and Route 2, to reduce pressure on smaller roads and town centers.
 - Analyze design and operation of roadways, intersections and traffic control devices to encourage use of Devens' roads in preference to other major area roadways. Prioritize and recommend actions.

- Proactively study and plan for improvements to severely impacted area roads and intersections to appropriately ease traffic operations.
- Participate in scoping and discussion of transportation elements of a North Post Master Plan
- Input into the implementation of Transportation Demand Management (TDM) activities, including organization of a Transportation Management Association (TMA).
- Encourage use of public transportation and non-motorized modes through education, incentives and improved amenities
- Attention to the transportation benefits of bicycle paths and other non-motorized routes in consultation with the Open Space Committee
- Attention to roadway changes occasioned by new projects in order to limit the expansion of parking lots and the need to widen roadways.

Many community benefits can be integrated into a TMA, including the following:

- Access by Devens and tri-town residents to a TMA shuttle bus on payment of a nominal fee, such as \$1 a ride for adults.
- Establishment of a commuter bus and ride share site at Devens with access through Route 2, so traffic does not go through the towns

SCOPE FOR DISPOSITION PLANNING

Through the committee structure discussed above, the JBOS can begin to address some of the initial issues that must be confronted in planning for disposition.

- Intensive evaluation of best uses for the so-called Out Parcels with particular concern for environmental issues, impacts on existing, adjacent uses, and achievement of environmental and sustainability objectives.
- Begin discussions of process for permitting of any development in excess of the 8.5 msf MEPA limit, both at Devens and of the Out Parcels, to maximize potential benefits and minimize detrimental impacts.

First Priority

Time Frame: 0 to 12 months

- The JBOS send a letter to MassDevelopment and DEC to invite the initiation of the disposition planning process.
- Establish a method for representation of Devens residents and business property owners in the disposition process.
- Secure agreement with MassDevelopment and DEC through a Memorandum of Understanding, or other instrument for participation and funding of the process, including funding for technical assistance to JBOS.
- Establish appropriate procedures for Towns to discuss, ratify and implement disposition decisions
- Enlarge and strengthen JBOS role in representation of Towns and coordination of efforts, for planning and negotiation of Disposition elements, with resources needed to implement
- Create a Disposition Planning Group (DPG) – made up of representatives of MassDevelopment, DEC, JBOS, Devens residents, and Devens businesses
- All parties to present initial statements of preferred disposition outcomes for priority lands, facilities, finances, infrastructure and services. Evaluation of impacts and outcomes to follow as work of the DPG.

Second Priority **Time Frame: 0 to 24 months**

- Comprehension of financial structure of Devens: values; income; expenditures; liabilities
- Evaluation of condition of infrastructure, future capital costs, management options
- Generation and evaluation of economic models for varying buildout and disposition scenarios
- Establish protocols for transfer and operation of areas, jurisdictions and services
- Creation of a refined and updated, detailed Master Plan for Devens development and anticipated end state. Master Plan is integrated in its elements and goals with updated Master Plans of the Towns
- Establish disposition timeline with attainment milestones for all elements

Third Priority **Time Frame: 1st to 3rd year**

- Interim Reports and preliminary decisions regarding individual elements of the Disposition Plan, as recommendations by the DPG to Towns, Public and Legislature
- Specific apportionment to appropriate parties of future ownership, jurisdiction and responsibilities for all disposition items
- Submission of full, final Report of the DPG on Disposition to Town Meetings, and the Legislature, for approval
- Secure appropriate action by Town governments and state Legislature
- Manage completion of amended buildout plan in conformance with plans
- Manage the disposition and transfer process

Future Disposition Actions **Time Frame: 4th year on**

- Regular revisiting of Master Plan and Disposition Plan elements to refine and resolve emerging issues
- Final status report upon completion of the Disposition Process to Towns and Legislature

Issue Categories

There are five primary categories of issues to be identified and reconciled in the disposition process for it to be effective:

- ***Jurisdiction and Governance.*** Identify and empower the body(ies) that will oversee, regulate and provide each municipal service, with clear delineation of the relationships and agreements between and among those bodies.
- ***Ownership of Properties and Assumption of Liabilities.*** Determine future status of current MassDevelopment properties and operations; ownership, tenancies and claims upon properties and activities by other public and private entities; and any federal holdings and responsibility for remediation of prior contamination.
- ***Management.*** Determine the services to be provided, operations administered and tracked, and fees collected by current and future entities, satisfactory for users' needs.
- ***Financial.*** Determine continuing costs of development, the burdens of service provision and capital improvements balanced with adequate, timely funding streams, and fairly apportioned revenues, recognizing the current and future capacities of the Towns and MassDevelopment.
- ***Community Development, Regional Services, and Physical Planning.*** Determine the physical and social networks required to knit together the businesses and

employees, residents, educational institutions and students, development, retail and business services, open space and natural resources into the existing local social and economic network, to create a stronger more vibrant economy, without detriment to existing quality of life and social cohesion.

Jurisdiction

- The legislation requires an evaluation and study of the four governmental options: Town government, joint entities, a combination of town government and joint entities, continuation of the existing Devens Enterprise Zone under control of MassDevelopment.
- Identify jurisdictional areas, authority and service provision for all areas of Devens
 - Bounds and resetting of lines for jurisdiction and governmental control - evaluate need and establish protocols, as necessary, to adjust Town boundaries
 - Areas of specific services: life safety, utilities, municipal services, education
 - Rights and responsibilities of residents at Devens
 - Clarify future Federal role at Devens: areas, operations, amounts
- Evaluate options on zoning and project approval
 - Boards and commissions of individual Towns
 - Continuing and/or transformed role for DEC
- Evaluate and recommend procedures and potential phasing options for:
 - Enhancement of a more systematic role and voice for the Towns in ongoing development and planning decisions before final disposition
 - Management of the disposition process, particularly at any phased transition points and at final transfers of governance
- Identify and draft amendments to MGL Ch. 498 and any supplementary legislation, as needed:
 - To ensure Town's voice and role in Disposition Planning;
 - To ensure sufficient resources are available for Disposition Planning;
 - To ensure that Towns can meet any additional financial demands of Devens on them prior to cessation or reconfiguration of MassDevelopment role
- Revise MassDevelopment process of creating reports and studies and achieving a more rapid and full distribution of the data and findings
- Evaluate potential opportunities and problems inherent in possible shared Town actions and operations for land use, infrastructure and services, and administration, such as a "Devens Development Commission," Special District, Authority or other inter-municipal entity for infrastructure planning, management, regulation, taxation, service sharing or joint purchase of materials and services
- Establish residents association of Devens homeowners with full input into planning efforts, through representation of Towns, or directly to JBoS
- Provide for interests of businesses to be voiced during disposition planning and beyond

Ownership and Liabilities

- Ownership of all lands to be identified, currently and as future projections and updated regularly

- Establish and track various liabilities related to land, facilities, activities, and environmental contamination, and create plans to manage and discharge liabilities fully.
- Determine requirements of future environmental remediation, via a comprehensive plan:
 - Identify sites and responsible party(ies), with developed chain of liability
 - Create appropriate timeline(s) for completion
- Determine Towns' interests in lands for municipal purposes
- Determine disposition and ultimate ownership of lands owned by MassDevelopment or other state agencies
 - Review purpose and impacts of planned future commercial and industrial land sales
 - Disposition of land that is undeveloped or not identified for development - sale, transfer to other state agencies, or conveyed to other parties
 - Establish transfer protocols, and equitable valuation and compensation methodologies

Management

- Identify appropriate and efficient management entities, and responsibilities, for all services and activities at Devens, including but not limited to:
 - Collection, management and disposal of solid wastes
 - Utilities
 - Recreation and open space management
 - Public safety - police, fire, EMS, inspection, health
 - Maintenance of infrastructure - DPW, Parks Dept.
- Evaluate opportunities for new local and regional services, such as the establishment of a regional Transportation Management Association (TMA)
- Create a schools plan to ensure satisfactory education of all children
- Establish methodologies to ensure that all new undertakings are properly planned, financed, staffed, and supplied, at levels equal to current Towns services, or other equitable measures
- Provide for routine review, oversight and modification of ongoing activities and initiatives

Administrative

- Identify and involve all affected parties in a mutually agreed disposition planning process
- Determine willingness of agencies to enter into MOUs with Towns on future development
- Secure and record all agreements relating to disposition planning
- Establish a Disposition Planning Group, with representatives of Towns, MassDevelopment and DEC, with defined roles and purpose
- Determine methods of making further amendments to Plan simpler to enact
 - Amend definition of Major Amendment to Reuse Plan, to lower threshold for consideration, to permit a greater range of activity by the DPG particularly during phases leading to disposition

- Develop a schedule of meetings and coordinate DPG and subcommittee meetings with schedules of Town Meetings, the Legislative calendar, and other factors
- Manage work flow of DPG, commission reports and studies, in a timely fashion
- Record, keep and publish meeting minutes in a timely fashion, providing access to the Public.
- Commission and write report to Legislature
- Ensure thorough review of proposed Disposition Plan by public and governmental entities
- Revise Disposition Plan to reflect concerns and new information
- Seek adoption of Disposition Plan by Towns
- Secure adoption of Report by Legislature.
 - Introduction and passage of any necessary amendments to MGL 498 or successor legislation
- Ensure the pursuit of any needed continuation, follow on, or new activities related to the Disposition Plan and oversight of the Disposition process and provide mechanism(s) for review, revision or extensions

Financial

- Determine costs and benefits to Towns and Commonwealth of different jurisdiction scenarios
- Evaluate MassDevelopment's cost and income structure
 - Focus on future income sources and liabilities
 - Determine the comprehensive financial status of Devens and operations
 - Provide projections of future revenue and expenditure profiles
 - Examine impact of alternative scenarios
- Evaluate MassDevelopment's agreements with commercial land owners and effect on potential town or joint entity revenues
- Establish long term capital plan(s) for land, infrastructure, facilities and operational needs
 - Establish methodology to make Towns whole should revenues not meet new expenditures
- Create a timeline to establish transfer of fees and responsibilities consistent with other Disposition Plan elements

Community Development, Regional Services, and Physical Planning

- Identify Town needs, current and future, which can be met with resources at Devens
 - Identify future municipal land needs of Towns that can be satisfied at Devens.
 - Establish terms for transfer of land to municipal ownership
- Evaluate Transfer of Development Rights (TDR) methodology
 - Between areas/purposes of Devens and Towns
 - Appropriateness for implementation under various scenarios
- Continue to monitor and evaluate traffic and transportation issues

- Review transportation generation projections for impacts of future changes to plan
 - Manage congestion, limit negative impacts
- Evaluate impacts and opportunities of new neighborhoods and housing creation:
 - Enhance the sense of community between Devens and the surrounding towns
 - Appropriate quantities, scale, siting, services and amenities
 - Structure, method and costs for services needed by residents, businesses, and other during and after the transition period
 - Assist the Towns' need to provide affordable and diverse housing types
 - Evaluate future school needs and potential locations
- Update and implement comprehensive open space and recreational facilities plans
 - Schedule and fund implementation of Devens Open Space Plan and Trails Plan elements with responsibilities identified, including trails and ongoing maintenance
 - Create a Recreational Facilities Plan to identify ownership, management and financial responsibilities and establish criteria for use by various user types
- Complete a detailed physical and economic plan for amended buildup and long range area evolution
 - Evaluate opportunities to transition from predominantly warehouse-based industry to other types of commercial development
 - Determine protocol for any proposed changes to buildout plan which would exceed MEPA thresholds and the regulatory limits of prior approved plans
 - Schedule demolition and removal of identified surplus buildings and infrastructure
 - Incorporate a detailed Master Plan for the North Post into the Reuse Plan
 - Create reuse plan for Vicksburg Square with timetable and disposition strategy, inclusive of financing and needed actions
 - Review Zoning of Devens and draft modifications bring into harmony with zoning and future needs of Towns
 - Revisit Devens plan and amend it to reflect goals of Towns and final state of Devens regarding physical form