

**DEVENS DISPOSITION FORUM:  
HARVARD RELINQUISHES JURISDICTION OVER ITS DEVENS LANDS**

April 28, 2004

Panelists: Judi Barrett, Planner with Community Opportunities Group and Project Lead for Harvard's 2002 Master Plan.

Larissa Brown, Principal, Community Design Partnership and Project Lead on 5-Year Review of the Devens Reuse Plan for the Joint Boards of Selectmen.

Moderator: Marge Darby, Past President, Harvard League of Women Voters

Question: What would the impact be on Harvard if the town did not have jurisdiction over its Devens lands?

Opening Remarks by Panelists

Judi Barrett (JB): JB began by briefly summarizing the benefits and liabilities to Harvard should it resume full jurisdiction of its Devens lands. Benefits included:

1. Town would have regulatory control over growth and development on Devens, as it presently does throughout rest of town (via Planning Board, Board of Health, Conservation Commission, Zoning Board of Appeals, etc)
2. Town would have opportunity for greater diversity, both socially and developmentally. It would gain access to a) public utilities (water and sewer), b) a larger and more diverse tax base given the commercial and industrial potential of Devens, and c) more open space and recreational lands.
3. Most towns do not give up lands within their corporate boundaries lightly, so neither should Harvard. Furthermore, smaller towns often struggle with population and tax base limitations. While Devens does have a strong commercial base, JB expressed concern about the long-term viability of Devens on its own. And a failed separate Devens community would certainly have a negative impact on Harvard.

The potential liabilities and challenges included:

1. Re-unification of the 2 communities (Harvard and Devens) will be difficult socially, given the level of animosity on both sides. JB questioned if the town had the will or capacity to overcome this animosity. JB stressed that re-unification is more than a political matter, it is also a social and cultural matter.
2. Town lacks the staff resources to manage Devens. Resuming jurisdiction would require a larger paid staff and, probably, a change in the organization of the daily management of the town. For example, the town would have to hire a planner. Is the town willing to accept such change?
3. The variety of land uses on Devens, particularly the commercial development, is not consistent with Harvard's current land use pattern (predominately residential). Does Harvard want to change its image?

4. Resuming jurisdiction is full of uncertainties and Harvard does not like uncertainties (we are prone to analyze issues to the 4<sup>th</sup> decimal place). Do we have the will or capacity to live with the uncertainties of Devens?

JB then discussed the impacts on Harvard should it not resume jurisdiction over Devens. These included:

1. We would have no control over growth and development on Devens. While this might not be a problem for most residents in Harvard, it could impact abutting neighborhoods and we could be faced with development we didn't like.
2. The town would have limited, if any, rights to intervene in decisions regarding Devens.
3. The town would lose the opportunity for significant growth of its tax base.
4. The town would lose access to public utilities. Again, the town may not now care about having access to them, but they remain a significant resource nonetheless.
5. The town would lose credit for the 40B affordable units on Devens (13 in Phase 1 housing, another 18 in Phase 2).

JB felt there are 4 issues the town has to understand in considering the jurisdiction question:

1. We can't have it both ways. We can't control what happens on Devens but not take responsibility for the population and businesses on Devens. What is Harvard's sense of responsibility towards Devens?
2. People now live on Devens and have the same civil rights and access to civic choice as any other residents in the Commonwealth. The decision over the future of Devens is not just the choice of the 3 towns; the residents need a voice as well and we need to be mindful of that.
3. Most people in Harvard like the town just the way it is. What is the incentive to change by adding Devens? How would it be in their interest?
4. There is not an equal distribution of power between the 3 towns and MassDevelopment (MD). MD has greater financial resources and political clout through its ties to the administration than do the towns.

Larissa Brown (LB): LB began by noting that she agreed with JB's comments and observations. She reiterated some of JB's comments or added the following:

1. If Harvard doesn't have jurisdiction, it doesn't have control over the growth and development of Devens.
2. Right now the most likely, and not unrealistic, outcome appears to be that Devens will become its own town.

3. The transition period during which Devens grows the necessary population base to support a separate town will be difficult. We should assume there will be more development on Devens to support a separate town.
4. Harvard will get the impacts of Devens' growth without the benefit of revenues (similar to the Cisco situation in Boxboro). However, Ft. Devens was a substantial community and did not destroy Harvard.
5. The purpose of the Reuse Plan was to create jobs to replace those lost when the Army left. Housing was limited because Devens was primarily an economic redevelopment area and the housing market in the surrounding towns was soft. Ten years later it is a different scenario: we now face a housing crisis and Devens could be part of that solution.
6. MD wears (too) many hats: developer (primary function), state agency (to implement Governor's policies) and quasi-municipality. Devens is a prime area to demonstrate the Governor's commitment to so-called "smart growth," the principle of developing new housing and jobs where infrastructure (utilities and transportation) already exists.
7. Early buildings on Devens (mostly in the Rail-Industrial Area) can be easily replaced and the area redeveloped with higher end commercial activity or even rezoned for housing.
8. There are no guarantees in the future of Harvard and Devens. We, as a town, make it overly complicated and will never have the level of assurance we seek for any decision.
9. Chapter 498 requires the towns and MD to make a report to the legislature. We need to be engaged.
10. LB agrees with JB's observation that it will be difficult to reunite the 2 communities of Harvard and Devens. We are at a disadvantage with the political power of MD to influence the outcome it wants. Neither solution on Devens' jurisdiction will be perfect and there are pluses and minuses with either course. The question is more intangible. Do we want to keep the two entities (Harvard and Devens) separate? Harvard will be different and will change whether or not it resumes jurisdiction of Devens, but resuming jurisdiction will make the change more pronounced.
11. LB believes the heart of the matter for the town is do we want to lose control over the development of Devens and access to its commercial tax base? We focus too much on costs, which we see as a negative, and not enough on the revenues, which most other towns would see as a significant plus.
12. Finally, what goals do we have as a community? What could be achieved with Devens?

Public Comments, Questions and Answers

1. Not having utilities (sewer and water) will not stop growth. It hasn't slowed growth in Action. So Harvard will grow, irrespective of Devens. What population is needed to support an independent town?

JB: It wouldn't necessarily take as many residents to govern Devens as govern Harvard. Harvard has a very high level of citizens participating in many committees which govern the town. Devens could afford to hire staff to do some of this work.

JB: Harvard is in denial if it thinks it wouldn't benefit from the revenue (potential and actual) generated by Devens development. Harvard is very high in the number of households with children, but very low in the number of children per household.

2. Given the charge in section 23 of Chapter 498 (regarding the entities to make report to the legislature on disposition), how do Devens residents and businesses have a voice in decision?

LB: MD brought the residents to Devens and so it is up to MD to make sure they have a voice in the decision-making process. The legislature will want to know that they (residents and businesses) agree on the recommendation submitted in the disposition report. Right now the residents have no local civic rights - for instance they vote in one town and their children go to school in another.

3. Devens residents will have a say in the disposition.

LB & JB: Correct. And they need to be included in the process. It is up to both MD and the towns to make sure that happens; the residents do live and now vote in either Harvard or Ayer.

4. Once disposition report has been prepared, what process will there be to find out if supported before it is submitted to the legislature?

LB: The process for affirming the report to the legislature was not specified in Chapter 498. The process, therefore, will be up to the parties to negotiate. Will it be another super town meeting vote? Does the town meeting vote have to be majority or 2/3 approval? Will it be only by ballot? Or will both a town meeting and ballot vote be required?

5. If Devens is going to be independent, how will Devens be governed in the interim time it will take to "build" a town? Where will the residents vote? Many Devens residents presume it will become its own town. But, in point of fact, Shirley will keep its Devens lands (west of the Nashua River) and Ayer may want its portion of the North Post.

LB: There are other models to consider. Perhaps MD continues as the developer and a town government is set up while the state is still actively contributing to the support of Devens. Acting in a municipal capacity is a problem for MD too.

6. So long as MD sets the tax rate (without public input or disclosure) and sets a budget (again without public review or approval), the residents on Devens have no rights in their local government. How long can such an arrangement be sustainable?

LB: Not very. It may take residents taking the state to court to change this situation. A better route is to determine jurisdiction/governance and then have continued state financial support for an interim period.

JB: Gov. Romney is talking "smart growth" where infrastructure exists. Devens fits the bill, particularly because it is already under state control.

7. How do we arrive at a solution that is beneficial to both the towns and Devens?

LB: There are several options. The towns could share infrastructure (water and sewer). Devens is capable of supporting more dense housing. Perhaps to support remaining open space and farms in Harvard, a system of Transfer of Development Rights (TDRs) is created whereby rights on Harvard land are sold and applied to development on Devens. Devens could also provide other services to the towns.

JB: We have to think of Devens as an opportunity area. Jurisdiction brings both revenues and costs.

8. Comment: The Devens residents are pawns of MD. How do we engage the residents and move forward? How can they be fully represented?

LB: The residents' rights could be solved by Harvard and Ayer giving them the full rights of citizens within their respective towns. For Harvard, that would include the right to public education in the Harvard schools. The various JBOS advisory committees could address the specific problems of integration. That shouldn't be up to the disposition committee.

9. If the Devens Reuse Plan hadn't been adopted in 1994, where would the redevelopment be today? And, unless we (the towns and Devens residents) all work together, won't the state just get its way?

JB & LB: We would be where Weymouth is. Devens was initially envisioned as an economic redevelopment area. Adding residents before disposition was determined has complicated the situation.

And yes, the state will get its way if the towns and Devens residents can't work together.

10. Would an independent Devens be receptive to the TDR idea?

JB & LB: There are better development patterns than what MD has done so far on Devens. Don't assume all additional housing would be bad for Devens, even affordable housing (80% median income for a family of 4 is \$62,000/yr). State would not allow only affordable housing to be built on Devens to the exclusion of providing it in Harvard. The state's policy is for scattered affordable housing. Also, the state is not only pushing affordable housing, but a greater diversity of housing.