

**Devens Enterprise Commission
DEC Public Hearing & Meeting
Minutes September 24, 2019**

Members: Duncan Chapman, William Castro, Dix Davis, Jim DeZutter, Robert Gardner (via phone), Robert Markley, William Marshall, Jim Pinard, Marty Poutry, Paul Routhier

Staff: Peter Lowitt, Neil Angus, Kate Clisham

Absent: Melissa Fetterhoff, Christopher Lilly

W. Marshall called the meeting to order at 6:45 PM and read the agenda

W. Marshall welcomed Robert Gardner, Jr. as the DEC's newly appointed Commissioner (Regional). R. Gardner joined the meeting via conference call tonight.

6:47 PM Minutes

D. Davis noted there seems to be a word missing at the top of page – "N. Angus reported it's not just about reducing but will also cover the measures we've taken to achieve sustainability goals." It was suggested to add the word cover.

M/S/V D. Davis, W. Marshall to approve August 27, 2019 minutes as amended; approved unanimously.

M/S/V J. DeZutter, W. Marshall to approve August 27, 2019 Executive Committee minutes as written; approved unanimously by D. Davis, J. DeZutter, W. Marshall and M. Poutry.

6:50 PM Old Business:

DEC Personnel – Draft Family and Medical Leave Policy

P. Lowitt introduced Jim Lampke DEC legal counsel on the line to discuss the draft policy and potential requirements. J. Lampke noted municipalities are exempt per the legislation. He's examined the law and notes municipalities have to vote to accept or adopt under certain procedures. He's called the Department of Revenue (DOR) to speak to counsel and left a message. He has also sent a detailed email noting the DEC has 3 employees and the enabling legislation shows DEC acts as the public entity. J. Lampke indicated he believes the DEC is not subject to the MA Family and Medical Leave Law. P. Lowitt asked if the DEC employees would be subject to and pay the tax. J. Lampke said he does not believe so. He indicated if the employer is not subject then the employee would not be subject to the tax but he will ask for clarification from the DOR.

P. Lowitt indicated he estimated the total cost to be roughly \$1,400 per year if the Commission paid both the employee and employer liability. P. Routhier said he didn't understand if this is just for the business community and not municipalities. J. Lampke noted municipalities have a local option to adopt the Paid Family and Medical Leave Act. P. Routhier asked about the small business community. P. Lowitt reported we are at a sticking point – does it apply to the DEC and does it apply to the DEC employees. He suggested having DEC pay both the employer and employee cost if DEC falls under the law. P. Lowitt said if it turns out we are exempt then he suggests we go back to handling leave informally as has been done in the past. W. Marshall noted the DEC has less than 25 employees (3 in total) and the question here is whether or not this applies to the DEC. He suggested voting two options so that when the ruling comes in we are prepared. Option A – the DEC will pay if we are not exempt and will contribute and participate fully; Option B – if we are exempt we will not participate and will approve leave on a case by case basis with no policy in place.

M/S/V J. DeZutter, D. Davis to adopt A or B depending on the ruling from DOR; approved unanimously.

J. Lampke indicated we could adopt an FMLA policy in the future if necessary. He will let us know the DOR ruling as soon as possible and ended the conference call at this time.

7:06 PM New Business:

Community Planning Month Proclamation

Chairman Marshall read the Community Planning Month Proclamation.

M/S/V J. DeZutter, W. Marshall to approve October as Community Planning Month at Devens; approved unanimously.

P. Lowitt reported MassDevelopment will be holding their Board of Directors meeting here at Devens on October 10, 2019. The Devens community portion of the meeting is scheduled to begin at 11:00 AM for anyone that would like to attend. He also reported there are no agenda items for October 3, 2019 so we may cancel, look for a notice from Kate. We do have a public hearing scheduled for October 29, 2019 at 6:45 PM.

7:09 PM **Public Comment:**

None

7:10 PM **M/S/V** J. DeZutter, W. Marshall to adjourn, approved unanimously.

List of Exhibits –

- Agenda
- Draft Minutes 8/27/19 Executive Committee
- Draft Minutes 8/27/19 Public Hearing
- Notice of MA Paid Family Medical Leave (PFML)
- Employer Notice to W2 Employees MA PFML Law
- Community Planning Month Proclamation