

CONSERVATION COMMISSION MINUTES

Date: November 19, 2020

Time: 7:01pm – 9:42pm

Place: This meeting was held as a virtual meeting via Zoom

<https://us02web.zoom.us/j/81133904116>

With a quorum present, the meeting opened at 7:01 Dan Green presiding as Chair.

Members Present: Leigh Gilligan, Kathy Cade, Jeff Zabel, Judy Hepburn, Ellen Katz

Members Absent: Susan Lunin

Staff Present: Jennifer Steel and Claire Rundelli

Members of the Public: not recorded due to remote nature of the meeting

DECISIONS

I. WETLANDS DECISIONS

1. Zoning Redesign – Community Engagement Update Presentation

- **Presenter:** Nevena Pilipovic-Wengler, City of Newton Community Planning/Engagement Specialist
- **Presentation (Nevena Pilipovic-Wengler):**
 - City staff provided background on what zoning means for Newton and what the “form-based” (not use-based) zoning redesign process is focusing on before detailing the different engagement opportunities and strategies of the zoning redesign process.
 - Commissioner Ellen Katz read a statement regarding the need for limits on cut and fill volumes and retaining walls allowed by right, and proposed an earth moving ordinance to help maintain natural landforms.
 - Commissioners requested more detail about what the zoning redesign process is focusing on and what City staff would like from the Commission. City staff replied that they are looking for folks to attend the upcoming community engagement opportunities to give feedback.
 - City staff asked the Commission how they engage the constituents of the Commission. Normally, in regard to wetland issues, it is constituents coming to the Commission. Land management engagement is often handled by staff.
 - Commissioners wanted to know how the zoning redesign process can support the enforcement of the Wetlands Protection Act, mentioning specifically stormwater management through City ordinance.
 - Commissioners asked what the purpose or end goal of the zoning redesign process is. Councilor Lisle Baker provided some context on the hopes of the Zoning and Planning Committee for housing, preservation of neighborhoods, and sustainability. The idea is go through the Ordinance article by article.
 - Commissioners asked about the effectiveness of form-based zoning for a City of Newton’s density. Councilor Baker described how form-based zoning would work for Newton.
 - Commission staff noted that they would share the zoning redesign website information with Commissioners.

2. 1000 Commonwealth Avenue (City Hall Ponds) – OOC – pond dredging – DEP File #239-878

- **Owner:** City of Newton **Applicant:** Maria Rose, DPW **Representative:** Robin Casioppo, GZA GeoEnvironmental, Inc.
- **Request:** Issue OOC.
- **Documents Presented:** Colored plans, site photos, draft OOC
- **Jurisdiction:** Bank, LUWW
- **Project Summary**
 - Restore the open water resource and hydraulic capacity of City Hall Ponds, improve flood control, and improve the ecological and recreational values of the historic City Hall Ponds by performing maintenance sediment removal (including the removal of accumulated sediment from a portion of the upgradient Hammond Brook and Cold Spring Brook culverts).



Mayor
Ruthanne Fuller

**Director
Planning &
Development**
Barney Heath

**Chief
Environmental
Planner**
Jennifer Steel

**Assistant
Environmental
Planner**
Claire Rundelli

**Conservation
Commission
Members**
Kathy Cade
Dan Green
Judy Hepburn
Ellen Katz
Susan Lunin
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- Remove 1-3 feet of accumulated sediment over 0.9 acres.
 - Work will likely begin Fall 2021; planting will likely occur Spring 2022.
 - Timeline of Work: (1) Install erosion controls. (2) Install temporary access roads. (3) Bypass pump stream. (4) Dewater ponds. (5) Excavate ponds from within the basin by excavators, backhoes, and similar equipment. (6) Repair bridge surfaces. (7) Revegetate disturbed areas.
 - A total of 3,270±CY of sediment is estimated for removal from City Hall Ponds and 330±CY from culverts.
 - Most sediment dewatering will occur in the basins, but some stockpiling may occur on land prior to trucking material off the site.
- Project Notes:
- The ponds treat a 2.7 square mile watershed.
 - The ponds are man-made, and stone walled. There is no BVW. There may be a clay liner in places.
 - City Hall Ponds have been managed as stormwater collection facilities, flood management/attenuation facilities, and aesthetic features. The ponds were built with clay liners and should be 3-5' deep, but now hold 1-3' of water.
 - The ponds were previously dredged in 1980, 1992, and 2013.
 - Sediment is clean enough for the City to use it at 70 Crescent Street. DEP confirmed upland reuse is okay.
 - Wildlife habitat is fairly limited. It will not be adversely impacted and will likely be improved. A full Wildlife Habitat Evaluation was conducted and found that for all likely wildlife (i.e., frogs, turtles, birds, fish, and mammals), the project will likely improve pond bottom habitat, the buffer zone habitat, and bank habitat.
 - Sediment quality is better than it used to be, thanks to better watershed management.
 - O&M of the upgradient pond (with monthly inspections) will limit need for future dredging.
- Presentation (Maria Rose, Robin Casioppo, Jennifer Burke with GZA) and Discussion:
- The applicant provided background on the pond system, historic maintenance, and the other permitting required by the project.
 - The applicant noted that because of exceeding thresholds for Bank and LUWW a wildlife habitat assessment was conducted. Additional permit needs have been addressed: historical, DEP water quality certification, and dredging (USACE Sec. 404, triggered by more than 100 cy of dredge material).
 - The applicant's representative provided a description of the chosen dry dredging process and that this process also allows DPW to make some concrete repairs to the two footbridges.
 - After a site visit with Conservation staff in the field it was determined that there is a better, more level access point and that the revised plans have changed the access location to the area with a gentler slope.
 - The applicant's representative provided a summary of the timeline for proposed work.
 - All water coming into the culvert during the project will be bypass-pumped from the inlet to the outlet of the pond system, thereby allowing the water to remain out of the pond basins but continue the flow of the system.
 - All sediment removed from the pond, after being evaluated through the 401 process, will be reused for upland use at 70 Crescent Street.
 - The ponds will be allowed to naturally refill after work is completed.
 - The applicant team did provide a set of revised plans addressing almost all staff notes presented in the agenda. Staff provided a brief summary of the changes made to address the notes and recognized that the notes not addressed (i.e., the alternate access path) were not an ultimately appropriate recommendation.
 - Conservation staff displayed the pond profiles to show just how much sediment (up to 3') needs to be removed from the ponds.
 - Conservation staff discussed how their request that restoration shrubs be distributed to particularly barren areas of the bank that will not be impacted by the project, to more fully revegetate the entire pond banks.
 - Commissioners asked about the survival of the plantings required during the previously approved dredging projects and for clarification on the proposed plant list (which was cut off in the packets). The applicant team provided the list of proposed plantings and clarified that the previous plantings are doing nicely. The previous plantings will have to be removed as the access points are the same as previous projects, but that an excess of shrubs is proposed for this project (27) and the species can be varied if the Commission wishes.
 - Commissioners raised concerns about the proposed arrowwood plants due to pest problems and suggested that this species be swapped out. The applicant team agreed to swap.
 - Commissioners asked if the rate of sedimentation we are seeing in these ponds is normal. Conservation staff provided some context that a large portion of the organic material is coming from the trees on site. The applicant team also provided context that the overall drainage area is quite large and that the ponds are very level and do not receive regular cleansing "scour" that more gradient streams and water bodies receive.

- The applicant is requesting that the Commission consider a provision to allow for future maintenance when needed, specifically in Pond 1, through an ongoing Special Condition including required notification to the Commission and reporting to be specified by the Commission. Staff feel that future maintenance of the culvert areas with vactoring could be approved, but maintenance of the larger pond areas through dredging needs to be more clear and likely can not be conditioned appropriately. Any volume over 100 cubic yards also triggers other permitting process.
 - Staff feel that the DPW general stream maintenance provides a method for approving future limited maintenance rather than through special conditions.
 - The applicant determined that it is favorable for a 5-year Order of Conditions to be issued.
 - Special conditions regarding how macrofauna would be dealt with if found. Commissioners and staff suggested that macrofauna could be captured and moved to Bullough's Pond. The applicant team claimed that they did not find much macrofauna in the previous dredging attempts and that they feel this likely isn't necessary. Language was settled on.
- Vote: To close the hearing and issue a 5-year OOC for the proposed dredging with the following special conditions. [Motion: Jeff Zabel; Second: Ellen Katz; Roll-call vote: Gilligan (aye), Green (aye), Zabel (aye), Hepburn (aye), Cade (aye), Katz (aye). Vote 6:0:0]
- The Stormwater Pollution Prevention Plan (SWPPP) must be submitted to the Conservation Office prior to the start of work.
 - The applicant must schedule and attend a pre-construction site visit.
 - Approved plans, notes, and pertinent aspects of the NOI narrative must be adhered to. The proposed sequencing of activities such as sediment and erosion control, dewatering, access creation, dredging operations, and restoration is critical and must be adhered to.
 - In general, dewatering shall occur as noted on plan sheet C-6. Details associated with the dewatering of North Pond must be submitted to the Conservation Office for review and approval prior to execution. At no time shall sediment-laden water be allowed to enter Bullough's Pond.
 - Restoration plantings (27 native shrubs, as per the approved plans) within Commission jurisdiction must:
 - a. Be distributed through all disturbed and unvegetated areas (a sketch plan showing proposed locations will be submitted to the Conservation Office for review and approval prior to installation)
 - b. Be installed in compliance with the approved plans (desired changes must be approved by the Conservation office in advance)
 - c. Be installed within 5 months of the completion of dredging.
 - d. Have a survival rate of 80% of total number of shrubs (after 2 growing seasons)
 - e. Disturbed soil around the shrubs will be mulched and seeded as per the approved plans.
 - All areas of disturbed turf shall be restored immediately upon conclusion of construction activities as per the approved plans.

3. 41 Concord Street (Leo J Martin Golf Course) – OOC (cont'd) – irrigation and snowmaking upgrades – DEP File #239-877

- Owner: Massachusetts Department of Conservation and Recreation Applicant: Raul Silva, DCR Representative: Jay Viamari, Tighe & Bond
- Request: Issue OOC.
- Documents Presented: Colored plans, site photos, draft OOC
- Jurisdiction: Buffer Zone, Riverfront Area, Bank, LUWW, BLSF, City Floodplain
- Project Summary
 - Project goals: install new snow making and irrigation infrastructure.
 - Project activities include:
 - demolition/removal of a masonry irrigation pump house and intake structure,
 - dredging of the manmade lagoon,
 - installation of a new pump house building,
 - installation of new water lines and electrical conduit, and
 - associated tree and understory vegetation removal.
- Presentation (April Doroski and Matt Wzorek with Tighe & Bond) and Discussion:
 - Applicant provided a summary of the revisions made to the plan set and stated that the project will be cutting fewer mature trees, reducing impervious area, creating an excess of compensatory flood storage, improving water use efficiency, and providing a healthy restoration area planting.

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- Flood elevations and flood calculations were corrected, so there will be a net gain in storage capacity.
- The pump house was moved to reduce tree cutting. Only 3 trees are now proposed to be removed at a total of 84 caliper inches instead of the previous 234 caliper inches.
- Dredging access will be from the south side for less disturbance.
- Plantings have been revised to include 52 trees and 47 shrubs.
- Grading out small pump area at the southeast of the lagoon on the access driveway (C-110).
- Corrected Sheet C-105 to show the correct trees as to be removed.
- Erosion controls and snow fencing installation locations were clarified.
- Applicant team also clarified that they went back into the field to re-delineate the wetland line and flag out the location of the new structures.
- Staff noted one error on the most recent plan set that shows the limit of work and shows certain trees to be saved within the limit of work and asked that the limit of work be revised (potentially with snow fence) to provide further protection for the trees. Applicant stated that this would be no problem.
- Conservation staff provided the Commission with a virtual site visit through photos.
- Vote: To close the hearing and issue an OOC with the following special conditions. [Motion: Leigh Gilligan; Second: Jeff Zabel; Roll-call vote: Gilligan (aye), Green (aye), Zabel (aye), Hepburn (aye), Cade (aye), Katz (aye). Vote 6:0:0]
 - Details of the dewatering plan (e.g., intake location and design) designed to limit and control any adverse on the wetlands resource area(s) must be presented to an agent of the Conservation Commission for review and approval prior to the start of any construction activities on site.
 - A concrete washout plan designed to limit and control any adverse on the wetlands resource area(s) must be presented to an agent of the Conservation Commission for review and approval prior to the start of any construction activities on site.
 - Snow fencing, erosion controls, turbidity curtains, compost socks, and silt sacks must be installed as per the approved plans.
 - The Limit of Work Line shall be moved to not include the three mature trees near the existing pump house shown on the approved plans as to remain.
 - Near the existing and proposed pump houses, plywood must be installed over the roots of the 4 mature trees and 2-by lumber must be lashed to trunks of the 4 mature trees that are close to equipment access, parking, or potential activity and shown on the approved plans as to remain.
 - Near the access channel, plywood must be installed over the roots of the 2 mature trees and 2-by lumber must be lashed to trunks of 2 mature trees shown on the approved plans as to remain.
 - Near the electrical conduit crossing, plywood must be installed over the roots of the mature tree and 2-by lumber must be lashed to trunks of the mature trees shown on the approved plans as to remain.
 - The sediment dewatering basin shall be installed (and reviewed and approved by an agent of the Commission) prior to any dredging equipment being mobilized on site.
 - The applicant must schedule and attend a pre-construction site visit.
 - Prohibitions include:
 - a. Cutting or damaging any mature trees not already shown on the approved plans as to be removed.
 - b. Dewatering work areas without a dewatering plan having been reviewed and approved by an agent of the Commission.
 - Approved plans and the accompanying NOI narrative must be adhered to.
 - Trenching spoils may not be stockpiled unprotected and may not be stockpiled within 25' of surface waters or the roadway.
 - During dredging operations, macrofauna found in the excavate shall be hand transferred to a safe zone.
 - During dredging operations, the stone walls and stone bottom (if any) shall not be disturbed.
 - All disturbance of Bank shall be restored using the Lagoon Bank Restoration and seed mix details in the approved plan set. This shall pertain to the bank of the lagoon and to the bank of the entry channel.
 - All dredge spoils shall be dewatered as shown on the plans and properly disposed off-site.
 - Landscape plantings must be installed as per the approved plans (desired changes must be approved by the Conservation office in advance):
 - a. Be installed within 6 months of the completion of the irrigation system.
 - b. Have a survival rate of 75% of total number of trees (after 2 growing seasons).
 - c. Have a survival rate of 75% of total number of shrubs (after 2 growing seasons).

- All areas of disturbed turf shall be stabilized and/or restored immediately upon conclusion of construction activities.
- Mulch applications (if any) and mowing shall diminish over time and eventually cease as the planted areas are allowed to fully renaturalize.
- The approved mitigation planting areas shall be maintained in perpetuity in their predominantly natural condition.

4. 2345 Commonwealth Avenue – OOC Amendment – relocation of aboveground propane tank – DEP File #239-869

- Owner: CHSP Newton LLC Applicant: Andrew Shelby, Boston Gas Company Representative: Amanda Houle, Tighe & Bond, Inc.
- Request: Amend OOC.
- Documents Presented: Colored plans, site photos, draft OOC amendment
- Jurisdiction: Riverfront Area
- Approved Project Summary
 - Relocation of a 1,000-gal propane tank and the associated pouring of a 16'x6' concrete pad in the new location; and construction of a 35' long and retaining wall around the proposed new location.
 - Proposed project will result in a 139 s.f. increase in impervious area.
 - Proposed 14" wide retaining wall will range in height from 1.5' to 3' and will require the excavation of a trench for the footings.
 - Existing concrete pad for the tank is proposed to remain, but the existing tank will be removed once the propane has been transferred to the new tank.
 - Existing non-native shrubs in the proposed tank location are proposed to be removed and an in-kind number of native plantings (~9) are proposed for replacement.
- Requested Amendments
 - In order to comply with fire safety regulations, the location of the newly proposed tank, vaporizer, and transformer must be moved.
 - The tank and vaporizer must be at least 25' from the building.
 - The tank and the transformer must be at least 10' from each other.
 - The vaporizer and transformer must be at least 15' from each other.
 - The new design places the tank and the vaporizer 30' from the building, while leaving the transformer in the originally proposed location. The distance of 30' was to minimize impact on the 25' naturally vegetated buffer.
- Presentation () and Discussion:
 - The applicant team provided a summary of the changes and why the revisions were required (Fire code).
 - The largest impact change in the requested amendment is a larger area of regrading (an additional 745 sq. ft.) for the new equipment location, versus the previous location adjacent to the building.
 - The regrading does impinge on the 25' buffer but will not result in the removal of natural woody vegetation, only the regrading of lawn and mulch bed. Disturbed areas within the 25' buffer zone are proposed to be reseeded with the New England Wetland Plants Erosion/Restoration Mix for Dry Sites.
 - All other proposed plantings remain the same.
 - Applicant clarified that they are planning on installing jute matting in the seeded areas.
- Vote: To close the hearing and issue an amended OOC with the following special conditions. [Motion: Jeff Zabel; Second: Judy Hepburn; Roll-call vote: Gilligan (aye), Green (aye), Zabel (aye), Hepburn (aye), Cade (aye), Katz (aye). Vote 6:0:0]
 - Erosion controls (staked 9" compost sock AND entrenched silt fence) must be installed along the toe of the slope, inspected regularly, and properly maintained during construction until the site is stable. If a breach of the erosion control barriers occurs, the Newton Conservation Commission shall be notified, and measures shall be taken to remediate said breach. City streets shall be kept clean and catch basins in the immediate area shall be protected from eroding soils. An adequate supply of extra erosion control materials shall be stored on-site at all times for repair or replacement. Hay bales are prohibited without permission from the Commission. Erosion control barriers shall remain in place until written authorization for their removal has been received from the Newton Conservation Commission.
 - Landscape plantings shall consist of 12 native shrubs and 3 native saplings, along with seeding in disturbed areas, within the general area of the work zone, in consultation with the Chief Environmental Planner, a majority to be installed in the barren mulch slope adjacent to the western edge of the adjacent parking lot.
 - a. Shrubs shall be at least 2-feet tall upon installation
 - b. Trees shall be at least 1.5 caliper inch upon installation

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- c. These plantings must stabilize all areas exposed during construction
- d. These plantings must be installed on or before October 15, 2020
- e. These plantings must survive 2 growing seasons for a Certificate of Compliance to be issued
- f. ***Jute matting or the equivalent must be installed to ensure slope stability while the seed mix becomes established.***
- g. If any trees within the project area die within 2 years of the start of construction or have been demonstrably harmed by construction activities, they shall be replaced at a ratio of 2:1 with native canopy saplings (of roughly 2 caliper inches).

5. 326 Fuller Street – OOC Extension – new paddle tennis courts – DEP File #239-813

- o Owner/Applicant: Sean McLaughlin, Brae Burn Country Club Representative: none
- o Request: Issue 3-year OOC Extension.
- o Jurisdiction: Buffer Zone, City Floodplain
- o Discussion:
 - The applicant has constructed 1 of the 2 approved new courts.
 - The applicant has requested a 3-year extension to the OOC issued in 2018 (due to expire in 2021), as they are unsure of when and if the second court will be constructed because of impacts from COVID-19.
 - Staff feel that a 3-year extension is appropriate since there is a 2-season planting survival requirement.
- o Vote: To issue a 3-year OOC extension for project 239-813. [Motion: Ellen Katz; Second: Leigh Gilligan; Roll-call vote: Gilligan (aye), Green (aye), Zabel (aye), Hepburn (aye), Cade (aye), Katz (aye). Vote 6:0:0]

6. 55 Boylston Street – COC – new open dining deck and rain gardens – DEP File #239-765

- o Owner/Applicant: Chestnut Hill Shopping Center LLC Representative: none
- o Request: Issue COC.
- o Jurisdiction: Buffer Zone, City Floodplain
- o Discussion: Staff site visit on 10/22/20 confirmed compliance; all required paperwork has been received. On-going maintenance and planting will occur within the rain gardens as they are impacted by foot and car traffic in the adjacent parking lot.
- o Vote: To issue a complete Certificate of Compliance. [Motion: Leigh Gilligan; Second: Jeff Zabel; Roll-call vote: Gilligan (aye), Green (aye), Zabel (aye), Hepburn (aye), Cade (aye), Katz (aye). Vote 6:0:0]

II. CONSERVATION AREA DECISIONS

7. Bee Policy

- o Presentation (Ellen Katz) and Discussion:
 - Ellen Katz is working to develop guidelines on beekeeping on Conservation lands limiting the number of hives per area and ensuring permission for beekeeping doesn't transfer hands without notice and approval. The Commission has currently approved hives at Norumbega and the Old Deer Park.
 - Ellen provided detail on her own experience with beekeeping and some of the research she has done regarding beekeeping, specifically the interactions between honeybees and native bees (e.g., competition for forage and disease transmission).
 - Other peer communities (Somerville, Cambridge, and Boston) have guidelines regarding bee keeping in the City.
 - Commissioners thanked Ellen for her efforts!

III. ADMINISTRATIVE DECISIONS

8. Commission Engagement: Packets, site visits, etc.

- o Discussion:
 - Staff would like feedback on the nature and format of information and engagement. Would Commissioners like more info from applications? Regular schedules for site visits? More active sub-committees? More engagement with Conservation Areas?
 - The only comments Commissioners had were: (1) a request to see elevations of construction in flood zone to better understand skirting and (2) more consistent orientation of plan sheet in packets.

9. Recognition of past Commissioners

- o Discussion: Commissioners discussed next steps in producing and delivering appreciations of past commissioners. Staff will schedule a time with remaining Commissioners to record their statements via Zoom. The Chair will finalize his efforts to get certificates of service for the two Commissioners from the Mayor and place a plaque on a bench.

10. Minutes of 10/29/20 to be approved

- Documents Presented: Draft minutes
- Vote: To accept the 10/29/20 minutes as edited. [Motion: Kathy Cade; Second: Judy Hepburn; Roll-call vote: Gilligan (aye), Green (aye), Zabel (aye), Hepburn (aye), Cade (aye), Katz (aye). Vote 6:0:0]

IV. ISSUES AROUND TOWN DECISIONS – None at this point in time.

UPDATES

V. WETLANDS UPDATES

- Bullough's Pond Skating Shed Violation: PRC staff met with Conservation staff on site to discuss the revised restoration planting plan for the area around the unpermitted wall. 15 native shrubs are due to be installed by the Bullough's Pond Association within a week.
- MBTA Green Line Herbicide Spraying. MBTA may have sprayed more often than their RDA allowed. Staff will look into it.

VI. CONSERVATION AREA UPDATES

- Houghton Garden – Hydroraking: Solitude is currently set to start hydroraking the pond the week of November 16th.
- Charles River Pathway – Stairs: We received 2 bids on the connector stair project. The low bid was awarded the project and we are working to get the contract signed so work can begin ASAP.

VII. ISSUES AROUND TOWN UPDATES

- OSRP approval: Staff received further comments on the OSRP, mainly regarding the need for a complete facility inventory for PRC parcels with their template. PRC staff are working to plan this effort, but final approval may be delayed.
- Christina Street Bridge Feasibility Study: Staff are working with DCR to finalize all requisite paperwork and with City staff to finalize the scope of services. Once all DCR permits have been received the scope will be sent out for estimates. The next step will be to secure the required MBTA access license.
- Climate Action rolls along! Website coordination with Green Newton is active, the Energy Coach position has been posted, solar installations continue, BlueBikes are here, EV chargers are being installed, zoning changes are under discussion, etc.!
- Stormwater Ordinance: A new draft is being developed for internal review.

VIII. ADMINISTRATIVE UPDATES

- Office Move: The Conservation Office (and the rest of the Planning Department) has moved to the second floor of City Hall. Staff can be found within the Inspectional Services Department and our assistance can be requested at the counter.
- Native Species List: Staff will be working over the winter to update the native plants list that is provided to residents.
- Interns: Staff had an initial interview with a potential Northeastern co-op but lack of funds quashed the possibility.

OTHER TOPICS NOT REASONABLY ANTICIPATED BY THE CHAIR 48 HOURS BEFORE THE MEETING

- Requests from Potential City Council Candidates: A few Commissioners have received calls from potential a City Council candidate regarding their opinions on certain issues. Staff said they would check in with the Mayor's office on how to respond, but noted that Commissioners should never give personal opinions on behalf of or as members of the Commission, but may give personal opinions if they so choose.
 - **ADJOURN at 9:42** [Motion: Kathy Cade; Second: Jeff Zabel; Roll-call vote: Gilligan (aye), Green (aye), Zabel (aye), Hepburn (aye), Cade (aye), Katz (aye). Vote 6:0:0]
-