

CONSERVATION COMMISSION MINUTES

Date: February 18, 2021

Time: 7:01pm – 10:44pm

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

<https://us02web.zoom.us/j/89416204734>

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

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

Members Absent: none

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. 145 Warren Street – cont'd NOI – renovation and additional units onto single-family home – DEP File #239-882

- **Owner/Applicant:** David Oliveri, Norton Point Warren St LLC **Representative:** John Rockwood, EcoTec, Inc.
- **Request:** Issue OOC.
- **Documents Presented:** Colored plans, site photos, draft OOC
- **Jurisdiction:** Buffer Zone
- **Project Summary**
 - The property is under new ownership. This is a revised version of a plan that was presented to the ConCom and for which an OOC was issued on April 19, 2019.
 - Demolition of existing detached garage, renovation of the existing single-family home and construction of 3 additional units on the lot.
 - Stormwater management includes several infiltration systems, both in and out of Commission jurisdiction. The proposed system also includes an overflow outlet with a flared end within the 25' Buffer Zone.
 - The proposed increase of impervious area within Commission jurisdiction is roughly 2,100 s.f. This represents a decrease in impervious area from the currently approved plans. An increase of roughly 5,000 s.f. of impervious area is proposed for the entire lot.
 - Proposed to be removed within ConCom jurisdiction are 17 of trees (10 of those over 8 caliper inches) totaling 131 caliper inches and invasive Norway maple saplings and bush honeysuckles.
 - The mitigation planting plan within ConCom jurisdiction includes 13 saplings (both canopy and understory), 30 shrubs, and 107 1-gallon and 2-gallon perennials.
- **Presentation (John Rockwood) and Discussion:**
 - The applicant's representative provided some background on the property and proposed work.
 - Staff stated that the revision does seem fully approvable, but that there are some concerns
 - Staff are concerned about locating the dewatering area over the planned infiltration area, noting that the infiltration area should be over-dug before installation of the stone and chambers to ensure that any fines introduced through dewatering are removed and the original infiltration capacity is restored.
 - Staff noted concerns about trees being planted over the infiltration area and would like to see a revised landscape plan showing the trees not over the infiltration area. Staff also noted their concern about the location of the proposed white pines being impractical. The applicant's representative and owner stated they would submit a revised landscape plan addressing those issues. They will address the pines by either determining they are okay or replacing them with another evergreen species to provide screening.



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
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- Staff noted that there are still Engineering comments to be addressed, none of which affect the wetlands jurisdiction on the property. The project will be conditioned to meet all Engineering requirements.
- Staff noted that the site is extremely tight. A preliminary phasing plan must be submitted that clearly illustrates that there is/will be appropriate access for all excavation, construction (e.g., construction of the retaining wall on the western property line), stockpiling, dewatering, access for planting, etc.
- Staff recommended that the restoration area be bounded with 2 bounds to provide a clear indication of where the limits of the naturalized area. The applicant stated this would be fine, and applicant's representative suggested making it 3 to make it clearer as the property boundaries are fairly hidden with vegetation in the final plan. These will be shown on the revised landscape plan being submitted. The applicant's engineer stated that a bound over the infiltration system may be problematic. Staff stated that the locations of the 3 bounds can be determined by the landscape architect and should be shown on the revised plan.
- The applicant's representative noted that the MBTA had recently installed new stone ballast, and that some had entered the stream course and was blocking flow. Staff said that they would reach out to the MBTA to ensure that the ballast is removed and stream flow is restored.
- Vote: To close the hearing and issue an Order of Conditions with the following special conditions. [Motion: Leigh Gilligan; Second: Jeff Zabel; Roll-call vote: Gilligan (aye), Green (aye), Lunin (aye), Hepburn (aye), Cade (aye), Katz (aye), Zabel (aye). Vote 7:0:0]
 - A revised landscape plan shall be submitted to the Conservation Office for review and approval. Said plan shall address conflicts between vegetation and infiltration systems and property boundaries and identify the location of 3 stone bounds. The area of restoration and the numbers and ratios of trees, shrubs, and perennials [35 saplings (both canopy and understory), 30 shrubs, and 55 1-gallon perennials] shall be maintained.
 - A concrete washout plan designed to limit and control any adverse on the wetlands resource area(s) must be presented to the Conservation Commission for review and approval.
 - A site stockpile plan must be presented to the Conservation Commission for review and approval.
 - Engineering test pit requirement. The applicant team must supply to the Conservation Office written proof of Engineering Department approval of a test pit within 25-feet of Infiltration System No. 2.
 - Erosion controls shall be silt fence reinforced with wire fence.
 - Infiltration area "refurbishing." Since the dewatering site is partially atop of the infiltration area, water carrying fine sediment may be driven down through the soil decreasing the area's porosity. To ensure long-term performance, after dewatering and before installation of the infiltration chambers, the area shall be over-dug and, when the site is excavated to receive the chambers, Engineering must conduct inspections of the bottom of hole. The applicant must submit proof of that inspection to the Conservation Office.
 - Landscape plantings within Commission jurisdiction must:
 - a. Be installed in compliance with the approved plans (desired changes must be approved by the Conservation office in advance)
 - b. Stabilize all exposed areas
 - c. Have a survival rate of 100 % of total number of trees (after 2 growing seasons)
 - d. Have a survival rate of 75 % of total number of shrubs (after 2 growing seasons)
 - e. Have a survival rate of 75 % aerial coverage of all other plants (after 2 growing seasons)
 - f. 3 stone bounds (3' long 4" granite posts) must be installed (2.5 feet deep with a 6" reveal) roughly at the edge of the marked lawn line on the eastern property boundary, in the middle of the lawn/restoration area, and in the corner of the lawn line near the western property line, to foster long-term maintenance of the planting area.
 - If any trees within the wetland or buffer 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).
 - Snow may not be stockpiled atop the infiltration systems.

2. 25 Bernard Street – NOI – teardown and rebuild single-family home – DEP File #239-883

- Owner/Applicant: Albert Chin Representative: John Rockwood, EcoTec, Inc.
- Request: Issue OOC.
- Documents Presented: colored plans, site photos, draft OOC

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- Jurisdiction: Buffer Zone, Riverfront Area
- Project Summary
 - The 200-foot RFA line runs through the back of the lot. Only a very small amount of the RFA on the site is proposed to be altered with hardscape or grading.
 - The site has a drain and sewer easement which runs through the rear of the site.
 - The overall project will entail:
 - Demolition of existing 1123 s.f. single-family home. No trees are proposed to be removed.
 - Construction of a new 2215 s.f. single-family home with a paver patio, stormwater infiltration, and planting area. The proposed project will result in a total of 595 s.f. of impervious area within the outer riparian zone.
 - Within RFA jurisdiction:
 - Impervious area is proposed to increase by roughly 467 s.f. (over the existing 128 s.f.) to 595 s.f.
 - 960 s.f. of mitigation planting (56 native shrubs) will be provided.
 - The existing driveway, deck, and lawn will be replaced with a portion of the proposed house, filled retaining walls and mitigation planting area.
 - The existing house is 204± feet, the existing paved driveway is 193± feet, and the existing stairwell is 197± feet from the Charles River.
 - The proposed house is 189± feet, the proposed driveway is located 226± feet, the proposed walkway and stairs are located 189± feet, and the closest retaining wall is located 185± feet from the Charles River.
 - A replacement fence will be elevated 4-6" for wildlife passage.
- Presentation (John Rockwood) and Discussion:
 - The applicant's representative provided a summary of the proposed work.
 - The proposed planting area is in the drain and sewer easement, so no canopy trees can be planted. The proposed planting schedule seems appropriate. Staff had some concerns about 6" elevated stone bounds within the drain and sewer easement and the danger they may pose to maintenance vehicles travelling through the easement; however, it was agreed that 2" bounds may pose an issue for lawn mowers. The applicant's representative agreed that 6" is appropriate; they will be installed at that height.
 - Commissioners brought up some concern with the proposed Eastern Red Cedar and the potential for apple cedar rust to travel and impact those plants. The fungus is prevalent in the surrounding area. The applicant's representative stated that if it did impact the plantings, the applicant/owner would replace them with another species to satisfy the 2-year survival requirement.
 - The applicant's representative clarified that neither stairs nor deck is needed into the rear yard because there is a walk-out basement and a patio.
- Vote: To close the hearing and issue Newton's standard Order of Conditions with the following special conditions. [Motion: Jeff Zabel; Second: Leigh Gilligan; Roll-call vote: Gilligan (aye), Green (aye), Lunin (aye), Hepburn (aye), Cade (aye), Katz (aye), Zabel (aye). Vote 7:0:0]
 - Landscape plantings within Commission jurisdiction must:
 - a. Stabilize all exposed areas.
 - b. Be installed in compliance with the approved plans (desired changes must be approved by the Conservation office in advance).
 - c. Have a survival rate of 80 % of total number of shrubs (after 2 growing seasons).
 - d. Mulch use shall decrease and eventually cease as plant material spreads throughout the enhancement area.
 - The stormwater infiltration system must be installed as per the approved plans.
 - The City Engineer must inspect the infiltration system. The applicant must submit proof of inspection to the Cons. Office.

3. 942-944 Watertown Street – Compliance Discussion – new duplex – DEP File #239-427

- Owner/Applicant: Janet Edsall Fields Representative: Stephen Fields
- Request: Determine how unapproved changes made to site should be mitigated to bring the site into compliance and be eligible for a Certificate of Compliance.
- Documents Presented: Revised as-built, annotated revised as-built
- Jurisdiction: Buffer Zone, Riverfront Area, BLSF, City Floodplain
- Staff Notes:

- The originally approved project (#239-427) involved the demolition of an existing single-family home and the construction of a duplex. The permit has not been closed out.
- Below is a timeline of events.
 - July 1, 2004 – Order of Conditions issued for the demolition of the existing single-family home and construction of 2 townhomes, referencing July 7, 2004 plans.
 - July 13, 2004 – Order of Conditions is recorded at the Registry of Deeds, proof not forwarded to the Conservation Office.
 - January 13, 2005 – Enforcement Order issued for lack of compliance of the following and other issues. (Please see the full list of violations and requirements in packet materials for this agenda item.)
 - IMMEDIATELY remove the porta-potty from the floodplain.
 - IMMEDIATELY remove all fill from the floodplain – soil, equipment, materials
 - IMMEDIATELY construct the compensatory storage and have it certified by a
 - Unpermitted plan changes (subsequently approved through Minor Plan Change #1)
 - February 12, 2005 – Letter received from Frank Iebba stating that the compensatory storage has been provided per the approved plans (resolving some of the Enforcement Order issues).
 - March 31, 2005 – Revised plans approved by Engineering Department for work.
 - May 6, 2005 – Revised plans (approved by Engineering) approved as a minor plan change by the Commission. (resolving remaining Enforcement Order issues)
 - September 27, 2005 – Reduction in required “native shrubs” reduced from 48 to 25 approved as a minor plan change by the Commission.
 - September 28, 2005 – Date listed on plan that may be equivalent to an as-built but is not titled “as-built.”
 - December 20, 2005 – Request to remove all required plantings was denied by the Commission.
 - January 28, 2021 -- “Original” as-built submitted with request for COC. Many inaccuracies noted.
 - February 10, 2021 -- Revised as-built submitted. Mostly accurate.
- Presentation (Steve Edsall) and Discussion:
 - Staff feel that the revised as-built more accurately represents the field conditions on site, except for a retaining wall at the front of the house on the east side.
 - Staff provided an annotated plan illustrating the unpermitted expansion (from the revised as-built) superimposed on the record plan. There are four main points of non-compliance that need to be dealt with:
 - the driveway expansion,
 - the patio,
 - the lack of plantings, and
 - the fence beyond the property line.
 - Commissioners raised the issue of equity in regard to enforcing the requirements of the OOC. Several Commissioners have been through the wetland permitting process and noted that all applicant’s need to be held to the same standards.
 - The homeowner’s representative provided an explanation of why the driveway expansion occurred – due to turning radius issues with cars leaving the under the house garage area. He noted that the extra asphalt near the street could be reduced with no ill effect. Commissioners appreciated the reasoning behind the change, and are not likely to require any changes to the existing layout, but noted that the request should have been brought before the Commission.
 - Commissioners noted that the driveway should be mitigated for through additional plantings rather than removal of the asphalt, due to the disturbance that would result from asphalt removal. Commissioners noted that plantings must be installed throughout the original planting area, and more, because of the expansion of the driveway. Commissioners noted that plantings (potentially around 4-5 saplings and 20-30 shrubs) must be included in a restoration plan to address the initial development and properly mitigate the unpermitted driveway expansion. Staff and Commissioners did note that additional mitigation plantings should be placed around the sides of the property and not just in the corner but that a professional should be brought on site to determine what is the appropriate scale for planting. Commissioners emphasized the need for pollinator/wildlife habitat and native species.
 - Commissioners noted that the fence needs to be removed and, if the homeowner wishes to install another fence on their property, that a proposal should be presented to the Commission for construction in flood zone.

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- Commissioners noted that the patio impinges on the area that should be planted and should be removed.
 - The homeowner agreed to remove the fence, remove the patio, and submit a planting plan.
 - If requested after remedial work has been completed, the Commission will consider issuing a letter stating that compliance is being actively pursued (but will not issue a partial Certificate of Compliance (COC)).
 - The representative asked about the possibility of posting a bond to allow for a partial COC, but staff noted that in their experience banks had always accepted letters describing the status and the pathway to a final COC.
- Consensus: To continue the discussion to the 3/11/21 hearing to allow the applicant time to develop a restoration plan for the site. Once a plan is approved, a letter may be provided from the Conservation Office detailing the process to compliance to facilitate the owner's interest in home refinancing.

4. 116 Upland Avenue – Compliance Discussion – enclosure of deck – DEP File #239-824

- Owner/Applicant: Ilya Zvenigorodskiy
- Request: Vote on plan to bring site into compliance.
- Jurisdiction: BLSF
- Discussion: The Chair stated he would prefer to wait until the homeowner can be present to discuss these issues. The homeowner was unavailable for this hearing.
- Consensus: Continue the discussion to the 3/11/21 meeting.

5. Needham Street Bridge and Roadway Reconstruction – informal discussion – DEP File #239-815 (and DEP File #239-741)

- Owner/Applicant: MassDOT Representative: Michael Smith, Project Manager with Gioioso and Marie Sullivan, engineer with Stantec
- Request: Determine whether an Amendment or Minor Plan Change would be most appropriate for the requested changes to the approved project (#239-815).
- Documents Presented: Colored plan excerpts
- Jurisdiction: Buffer Zone, Riverfront Area, BLSF, City Floodplain
- Presentation (Marie Sullivan) and Discussion:
 - The representative stated that the reason the Needham Street/Bridge project was separated from the Needham/Oak/Christina Intersection project was because Newton received a MassWorks grant for the intersection work and so the timing of the projects did not align. She then provided a summary of what work was approved for both projects.
 - The representative stated that additional tree removal (26" diam. deciduous and 32" diam. deciduous on the east side of Needham Street – cutting, no grubbing) and shrub clearing is needed because the utility company needs to install a temporary utility pole with guy wires and needs 10 feet of clearance around the wires. The drawings submitted show the worst-case scenario of 10' of pruning/clearing, but the applicant is hoping that Eversource will undertake less pruning. Additionally, the abutment wall will require digging through the roots system of the 26" tree.
 - On the west side of Needham street, a twin 14" diam deciduous tree has already fallen and 2 other 10" diam. trees are in the way of bridge construction and will need to be removed (and should have been marked at to be removed on the original plans). In addition, a 36" diam. tree (red oak) that was intended to be saved is at risk due to the approved widened sidewalk, the excavation associated with the bridge wing wall, and the associated grading changes.
 - The applicant intends to mitigate for the additional tree removal. The Commission stated they would like to see trees proposed on the western side of the street and that shrubs/understory trees (ideally good for slope stabilization) should be proposed for the eastern side of the street to avoid conflict with the utility wires. It was noted that the slope and the swale area on the west side could accommodate more plantings.
 - Staff provided additional information about what was already approved and posed further questions about why the proposed changes are absolutely necessary. The applicant's representative stated that the grading shown on the Oak/Christina plans (the only plans that show grading changes) do not account for the sidewalk proposed as part of the Needham Street corridor project.
 - Commissioners asked what the coordination has been with Needham on this project. Staff did meet in the field with representatives from Needham, but there has been little coordination in regard to wetlands permitting.
 - Staff asked if the utility pole in conflict with the 26" diam. tree could be resolved by moving the utility pole further south and east. The applicant's representative responded that that would move the pole out of the right-of-way and construction easement and onto private property, requiring a new easement to be secured, further

delaying work. The easement shown on the plans being presented has been secured for guy wire only, not an actual utility pole. Commissioners noted that the applicant was aware of these issues many months ago, yet are only now seeking resolution, immediately before starting construction.

- The applicant committed to looking for creative solutions to saving the 36" red oak, but it is understood that if there are no good options, the tree (estimated to be 140 years old) will be allowed to be cut and appropriate mitigation will be required.
- The applicant committed to providing plan sheets showing the proposed work (cutting, grading, etc.) and the newly proposed mitigation planting.
- Commissioners feel that an amendment is necessary because of the scope of the proposed changes and the need to reference updated plans in a recorded document.
- Work is due to begin on the overall project next week, but not within the area being discussed as part of an amendment. The Commission feels that as long as the required pre-construction site visit takes place, the other work in the roadway can get underway.
- Public Comment: Sonya McKnight: would like to see as much effort made as possible made to save that 36" red oak.
- Consensus: The applicant will present a mitigation plan for the tree removal, a set of cross sections, and a report regarding potential solutions to save the 36" tree through a formal amendment request. The amendment request should be submitted in time to be heard at the 3/11/21 meeting.

6. 55 Bernard – Partial COC – after-the-fact landscaping – DEP File #239-871

- Owner/Applicant: Jim Corsi, Corsi Realty LLC Representative: John Rockwood, EcoTec, Inc.
- Request: Issue partial Certificate of Compliance.
- Jurisdiction: Buffer Zone, Riverfront Area, BLSF, City Floodplain
- Presentation (John Rockwood) and Discussion:
 - All required paperwork has been received. The annual monitoring report from EcoTec and a staff site visit on 2/5/21 confirmed compliance, though the plants have not yet survived the required 2 growing seasons. The applicant's representative stated that additional flood storage was provided that was originally approved and that less lawn than was approved was installed. Overall, more compensatory storage and less lawn.
 - EcoTec has been retained through 2022 to continue monitoring of the plantings until the required survival is reached in fall 2022.
 - Staff noted that they prefer to issue detailed letters indicating the status of the project and the items that remain outstanding rather than issuing a partial COC which is not designed to reflect projects that are still underway, and so can confuse people investigating the record in the future.
 - The property sale has closed and so there is not a hold up on that end due to waiting on a partial COC.
- Vote: To issue a "COC expected" letter in response to the request partial Certificate of Compliance. [Motion: Susan Lunin; Second: Jeff Zabel; Roll-call vote: Gilligan (aye), Green (aye), Lunin (aye), Hepburn (aye), Cade (aye), Katz (aye), Zabel (aye). Vote 7:0:0]

II. CONSERVATION AREA DECISIONS

7. Orienteering at Kennard

- Owner: Conservation Commission Applicant/Representative: Newton Parks, Recreation, and Culture (Channon Ames)
- Request: Determine if the proposed orienteering course for Kennard Conservation Area is appropriate as a one-year pilot and approvable for installation.
- Documents Presented: Course overview
- Presentation (Channon Ames) and Discussion:
 - The applicant noted Parks, Recreation & Culture's interest in installing 5 courses in Newton.
 - The applicant provided a summary of the proposed course and the 12 proposed marker locations, most of which are on Conservation property. There are a few locations where the applicant would like feedback from the Commission - the boulder field control punch (the tool used to mark the Orienteering map showing that the location was reached), the pond/dam control punch, etc.
 - There are some locations where the spot was chosen due to ground conditions or identifying features that provide an opportunity for people to learn more about the symbols used on orienteering maps.
 - Several markers are proposed a little further off the trails to ensure that the course is a bit more challenging than just stumbling across the markers when walking along the trail.

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- Staff and Commissioners noted concerns about ephemeral wildflowers, lady slippers, nesting habitat, and other sensitive conditions. Sites will have to be vetted when such characteristics can be determined.
 - Staff will make another site visit to Kennard once vegetation comes in to provide further information about Commission preferences regarding marker position. The marker locations will be flagged in advance of installation for DigSafe review and for staff confirmation.
 - In order to track usage and impact, it was suggested that photos be taken right after installation and then after a year to determine if the pilot should continue.
- Vote: To approve installation of posts for a 1-year pilot course as presented for Kennard Conservation Area, with posts no more than ~9 feet from the trail at locations confirmed by site visit with Conservation staff, and spring and fall photo monitoring to be presented to the Commission in January or February of 2022. [Motion: Dan Green; Second: Susan Lunin; Roll-call vote: Gilligan (aye), Green (aye), Lunin (aye), Hepburn (aye), Cade (aye), Katz (aye), Zabel (aye). Vote 7:0:0]

8. Orienteering at Flowed Meadow Conservation Area

- Owner: Conservation Commission Applicant/Representative: Newton Parks, Recreation, and Culture (Channon Ames)
- Request: Determine if Flowed Meadow Conservation Area is appropriate for a temporary course installation.
- Documents Presented: Course overview
- Presentation (Channon Ames) and Discussion
 - The applicant raised the possibility of a temporary course through Flowed Meadow Conservation Area and Auburndale Park in partnership with the New England Orienteering Club. This week-long “Orienteering” event would take place in mid-March and involve temporary flags being hung (no posts, just printed codes tied onto existing features). All proposed flags have been mapped close to the trail.
 - Commissioners feel that Flowed Meadow may be too sensitive for this kind of orienteering event.
 - PRC staff had felt that because it is winter, this type of event would be more acceptable, but the current weather forecast indicates that we may be fully snow-free by mid-March.
 - The Commission feels that a site visit is needed and since our next meeting is 3/11, this event cannot happen on 3/14.
- Consensus: Conservation staff will look at the site once there is less snow on the ground to determine the appropriateness of the course layout and its possible impacts on the local ecology.

III. ADMINISTRATIVE DECISIONS

9. Minutes of 1/28/21 to be approved

- Documents Presented: Draft minutes
- Vote: To accept the 1/28/21 minutes as revised. [Motion: Judy Hepburn; Second: Leigh Gilligan; Roll-call vote: Gilligan (aye), Green (aye), Lunin (aye), Hepburn (aye), Cade (aye), Katz (abstain), Zabel (abstain). Vote 5:0:2]

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

UPDATES

V. WETLANDS UPDATES

- Riverwalk: Staff are investigating unpermitted tree cutting in Riverfront Area.

VI. CONSERVATION AREA UPDATES

- Houghton tree cutting: Staff have selected a contractor for the removal of 5 hazard trees.
- Beekeeping on Conservation Land: Staff located the license agreements for current beekeepers on Newton Conservation Land and will work to update them and renew them as appropriate once a set of guidelines has been adopted.

VII. ISSUES AROUND TOWN UPDATES

- Christina Street Bridge Feasibility Study: Staff are moving forward with VHB to perform the feasibility study.
- Beekeeping in Newton: Staff are part of discussions relating to the legality of beekeeping by private landowners in Newton.

VIII. ADMINISTRATIVE UPDATES

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

ADJOURN at 10:44 [Motion: Susan Lunin; Second: Leigh Gilligan; Roll-call vote: Gilligan (aye), Green (aye), Lunin (aye), Hepburn (aye), Cade (aye), Katz (aye), Zabel (aye). Vote 7:0:0]