



# TOWN OF UPTON, MASSACHUSETTS

---

## Conservation Commission

Meeting Minutes – Wednesday 4/03/2023 – (Special Meeting) Remote Meeting (Teams)  
To: Members of Upton Conservation Commission  
CC: Denise Smith,  
From: Grace Brownell

### Members Participating:

Chair: Christine Scott, Vice Chair: Mike Penko

Members: Sandy Lajoie (treasurer), Alan Miano, Tom Jango, Marcella Stasa & David Szczebak

Absent:

Agent: Mary Overholt

Associate Member: Grace Brownell

Visitors: Grace Lam, & Jim Lazzazi (Five Forks Farm), Kristin O'Brien (SVT), Mia McDonald (DEP), Nathaniel Hengy (FPAC-NRCS), Blythe Robinson (Previous Town Manager), William Taylor (Open Space Committee)

**7:00 Remote Meeting Opened- Christine Scott is facilitating the meeting.**

### AGENDA ITEMS/HEARINGS

#### 7:30 NOI Five Forks Farm – Construction of an irrigation pond –

- Mary called on Nathan (project engineer) to discuss new plan. Nathan noted adjusted location of pond to minimize potential impact to stone wall. The same storage volume has remained, the grassed channel has been shifted over slightly to the South, where existing stream resides.
- Mary called on Commission to review order of conditions. Condition #42 was reviewed: “The Commission and its Agent shall have the right, but not the obligation, to monitor intermittency of flow into and discharge from the retention pond”.
  - DEP does not see the use of data loggers as necessary. Mike noted how the swale will now be fed by a pipe which could make it harder to monitor. Also monitoring could occur from the North St. culvert and where the stream enters town land downstream of retention pond.
  - *Mike motioned to removed order of condition #42. Tom seconded. All voted in favor by roll call vote.*
- Grace requested commission to review Condition #40: “Pre-construction meeting included as a condition in bullet #26”.
  - Mary will add the language “During construction period”.
  - Grace noted she was fine with pre-construction meeting but was unclear about other meetings for NRCS and contractor. Grace requested for the language to be

changed so the commission is described as an entity. Commission decided for language to remain the same.

- Grace addressed condition #24: “The Commission or its Agent shall have the right to halt all work on the site if the Commission or Agent determines that any of the work is not in compliance with the Order. Work shall not resume until the Commission, or its Agent is satisfied that the work will comply and has so notified the Applicant in writing”.
  - Grace again inquired about language. Mary noted language is due to standardized order the conditions follow.
  - Mike noted Mary is the current administrator, not agent. Any commissioner can issue enforcement order. There would be no need to have posted meeting. The decision would just need to be ratified by whole board. Chris noted Commission does not shut projects down unless circumstances are substantial.
  - Grace again requested for a change in language to include “Commission or Agent/Administrator”. Tom voiced to keep the wording as is. Chris reassured Grace if something were wrong, she would be the first to be notified.
- Grace inquired about condition #43: “The Commission and its Agent have the right to semi-annually inspect the condition of the stream, swale, and the retention pond with prior notification to the farm”.
  - Mary will add to condition that Grace needs to receive a two-day notice prior to any inspection.
- Nathan noted how typical NCRS process includes a NCRS person on site to assess work.
- Blythe Robinson noted how Five Forks Farm have done fantastic job respecting the CR they have inherited, while establishing a great business. She also trusted commission to act in best interest of Town.
- Mia readdressed the role of agent. Usually it is defined in local by-law.
- Mary asked to clarify condition #40.
  - Chris requested to add language “preconstructed meeting” or only scheduled meetings apply.
- Mike inquired about variance expiration date of three years. Mary noted it is a likely issue with by-law. *Tom motioned to remove statement about expiration 3-30-2026. Mike seconded. All voted in favor by roll call vote.*
- Grace addressed Condition #29: “The erosion/sedimentation controls identified on the approved plans and specified in this Order will be the minimum standards for this project; the Commission or its Agent may require additional or modified erosion/ sedimentation controls during construction if it deems that site conditions warrant such measures. If necessary, the Commission may require the Applicant to engage an engineer to formulate and/or oversee the installation of additional measures to minimize erosion and/or prevent sedimentation of protected resource areas.
  - Grace asked, given this is NRCS project, can condition be referenced to consult with NRCS? Mary noted this is standard condition. Grace proposed to delete the second sentence. *Mike motioned to eliminate second sentence for condition 29. Marcella Seconded. All voted in favor by roll call vote.*
- *Marcella motioned to vote on amended order of conditions. Tom seconded. All voted in favor by roll call vote.*

- Mary called on Commission to review CR Memo.
- Mike noted memo is good for historic record in case public has questions in future. Also noted, last two paragraphs were written after Nathan's final sketch. He asked if there will be an impact to the Southern end of the wide stone wall. Grace noted during construction, they do not plan to touch wall, unless conditions call for it. The NRCS plan shows flow in the grassed channel passing through the wall. In case of any circumstances that require the removal of the stonewall, the Commission would be notified. NRCS cultural resources staff would also review any plan to remove a section of the wall
- Kristen addressed the SVT memo. She noted there will be no need for CR review if the wall remains intact. FFF will have SVT's approval to dismantle wall only if and when they have taken all other precautions, as discussed.
- Mike noted language in the memo is needed to reflect how wall will only be removed if conditions require it. He requested, if removed, at minimum, the face of new wall is to be stabilized.
- *Alan motioned to approve new NCRS plan- Retention pond grass swale design is approved by conditions and is consistent with CR. Marcella seconded. All voted in favor by roll call vote.*
- *Mike motioned to approve the CR memo as written with exception to allow Mary to edit the last two paragraphs and to include the removal of stones in a culturally sensitive manner. Chris seconded. All voted in favor by roll call vote.*
- *8:39 Mike motioned to adjourn. Tom seconded. All voted in favor by roll call vote.*

#### Document List

4/3/23 Meeting Packet

Minutes approved on: April 12, 2023 (remote meeting)

Chris Scott	Mike Penko
Tom Jango	Sandy Lajoie
Alan Miano	Marcella Stasa
David Szczebek	