

**SPECIAL JOINT MEETING OF THE
SALISBURY INLAND WETLANDS & WATERCOURSES COMMISSION
AND
PLANNING & ZONING COMMISSION
FRIDAY, NOVEMBER 19, 2021 – 9:00 AM**

Remote Meeting by Live Internet Video Stream and Telephone

1 **Members Present:**

2 Vivian Garfein (Chair)
3 Peter Neely (Vice Chair)
4 Dr. Michael Klemens (Commissioner)
5 Cathy Shyer (Commissioner)
6 Maria Grace (Commissioner)
7 Debra Allee (Commissioner)

Staff Present:

Abby Conroy, Land Use Administrator (LUA)

Members Absent:

8
9 **1. Call to Order**

10 LUA Conroy called the meeting to order at 9:05 am recognizing the meeting as a joint assembly
11 between the Salisbury Planning and Zoning Commission (PZC) and the Salisbury Inland Wetlands and
12 Watercourse Commission (IWWC). She indicated all meetings will be considered special meetings.

13
14 **2. Attendance**

15 The presence of Peter Neely of IWWC, Vivian Garfein of IWWC, Debra Allee of PZC, Cathy Shyer of
16 PZC, Maria Grace of IWWC, LUA Abby Conroy and Dr. Michael Klemens of PZC was acknowledged.

17
18 **3. Introductions**

19 The commissioners gave a brief introduction of their backgrounds.

20
21 Vivian Garfein specified she was one of the newest members of the IWWC Commission and a
22 recent full-time resident of Lakeville. She has practiced law for 30 years and previously worked for the
23 Florida Department Environmental Protection as litigation attorney, a bureau chief for surface water
24 management and a district director for Central Florida.

25 Dr. Michael Klemens has a background in ecology and conservation biology and is on the staff
26 of the American Museum of Natural History in New York City. He has also worked for the Wildlife
27 Conservation Society and has extensively studied wetlands and their importance to the landscape and
28 has authored numerous publications. He is currently the Chairman of the PZC, residing in Lakeville.

29 Peter Neely has a long history with the town of Salisbury and has resided here for many years.
30 He has a background as an English major both teaching and as administrator and is now retired. Much
31 of his land in Salisbury, where he resides, is wetlands and is a major tributary to the East Twin Lake. He
32 participates in monthly water testing for the East Twin Lake and contributes much of this data with the
33 Connecticut Department of Energy and Environmental Protection. He currently serves on IWWC as a
34 regular member.

35 Debra Allee has a background in environmental impact statements and started the firm AKRF in
36 New York City. Much of her work has been in urban areas and she met Dr. Michael Klemens in
37 Montauk New York years ago working on a development project. She has an extensive background
38 dealing with urban, suburban, and rural wetlands. She currently serves on the PZC as an alternate.

**SPECIAL JOINT MEETING OF THE
SALISBURY INLAND WETLANDS & WATERCOURSES COMMISSION
AND
PLANNING & ZONING COMMISSION
FRIDAY, NOVEMBER 19, 2021 – 9:00 AM**

Remote Meeting by Live Internet Video Stream and Telephone

39 Maria Grace studied environmental science at the New Jersey School of Conservation. She has
40 run several educational programs on river ecology for youth and worked for the Conserve Wildlife
41 Foundation in New Jersey for 10 years. In 2014 she moved to Northwest corner where she worked for
42 Sharon Audubon, Housatonic Valley Association and is now the executive director of the Sharon Land
43 Trust. In 2018 she moved to Salisbury serving on the IWWC commission as a regular member.

44 Cathy Shyer move to the states 30 years ago with her husband and in 1998 moved to Lakeville.
45 For many years she worked with the Wononscopomuc Lake Association in Lakeville and dealt with
46 many IWWC and PZC issues. She has been a Commissioner on the PZC since 2017 and has recently
47 become the Vice-Chair.

48

49 **4. Election of Officers**

50 Dr. Michael Klemens proposed a nomination of Vivian Garfein for Chairman of the Commission
51 Cathy Shyer second the nomination and she accepted.

52

53 *Motion:* To elect Vivian Garfein for the Chair of the joint Commission.

54 Made by Klemens, seconded by Shyer

55 Vote: 6-0-0.

56

57 Dr. Michael Klemens proposed a nomination of Peter Neely for Vice-Chair of the joint
58 Commission. Cathy Shyer seconded the nomination and he accepted.

59

60 *Motion:* To elect Peter Neely for the Vice-Chair position of the joint Commission.

61 Made by Klemens, seconded by Shyer

62 Vote: 6-0-0.

63

64 **5. Organization of Topics & Tasks**

65 Chairman Garfein initiated the conversation on organization of topics & tasks she indicated Vice
66 Chair Neely and herself have both reviewed the PZC regulations and LUA Conroy provided a list as a
67 starting point. She inquired if Commissioners had any considerations or additions.

68 LUA Conroy begin with the topic of *clearing* she recognized the need to follow up with Darcy
69 Winther of DEEP and Janet Brooks, attorney for IWWC, for recommendations on *clearing* definitions.

70 LUA Conroy spoke to the meaning of the *ordinary high watermark* noting it is used in both
71 regulations however has different definitions. She added Dr. Klemens, in his PZC Chairman capacity had
72 given ecological/biological suggestions and draft language for an improved definition. She also
73 suggested including definitions for fens, vernal pools, high gradient streams and head water streams as
74 the IWWC is considering a resource-based approach to their Upland Review Area.

75 LUA Conroy also expressed a need to have a public guidance document to define and explain
76 the different jurisdictions including *setbacks, upland review areas, buffers and regulated areas.*

**SPECIAL JOINT MEETING OF THE
SALISBURY INLAND WETLANDS & WATERCOURSES COMMISSION
AND
PLANNING & ZONING COMMISSION
FRIDAY, NOVEMBER 19, 2021 – 9:00 AM**

Remote Meeting by Live Internet Video Stream and Telephone

77 She specified that IWWC has also requested a definition for *declaratory ruling* which is a
78 statutory exemption to wetland permitting that must go before the IWWC Commission before it is
79 deemed exempt.

80 LUA Conroy also mentioned the issue of *docks* as both Commissions frequently see this topic
81 before them.

82 Commissioner Shyer requested an explanation as to the overall goal of this this Commission.
83 LUA Conroy responded that much of the objective is to address conflicting terms as well as clarifying
84 and streamlining the process between the two Commissions. There is some overlap in jurisdiction
85 which can be confusing to both the public and Commissioners alike.

86 Chair Garfein noted that IWWC is changing and updating their regulations and many of the
87 definitions need to be updated. She noticed many overlaps between the two Commissions and hopes
88 clarification will lessen the pushback to these changes. She suggested tackling *ordinary high watermark*
89 in the next meeting as the PZC has one definition but the term is undefined in the wetlands
90 regulations. She also suggested trying to tackle jurisdiction and buffer definitions as they are priority.

91 Commissioner Klemens acknowledged the need to distinguish between buffer, setbacks, upland
92 review areas and regulated areas as this would help to clarify the disconnect between the jurisdictions
93 of the Commissions. He also urged the Commissioners to examine what it is they are trying to protect,
94 asking what are these important values, and which activities can be “as of right”.

95 Commissioner Shyer queried the stance of IWWC on ordinance and fines for violation? The
96 Chair responded that IWWC has no consensus within the Commission but does have a will for more
97 enforcement. LUA Conroy identified the Town of Salisbury does not have the right to fine and would
98 need to establish an ordinance to do so.

99 Commissioner Grace reiterated the need for clarification of definitions stating it can be
100 extremely confusing even with a scientific background and would be beneficial for all parties involved.
101 She opined that many people conduct activities without permits because regulations can be
102 ambiguous.

103 Commissioner Allee voiced concern that many times the commissions focus on the lakes and
104 not on streams and watercourses. Commissioner Klemens noted that the lake issues give good
105 community feedback, and more thought and work is needed regarding regulated activities. He noted
106 that authority needs to be clearly defined adding every case is different and no property is ecologically
107 isolated. He stressed regulations should not just be restrictive but also provide incentives.

108 Vice Chair Neely identified the issue with “as of right”, expressing that many people interpret
109 this as a right endowed and not as activities to be reviewed by the Commissions then deemed
110 appropriate. The Commission agreed that “as of right” activities need to be defined accurately and
111 should consider the possibility of adding/listing exempt activities within these categories. It was agreed
112 that regulations should cover State statutes of definitions even if there are more than one. They
113 acknowledged the necessity to be written in a manner that can be easily understood and defended in
114 court.

**SPECIAL JOINT MEETING OF THE
SALISBURY INLAND WETLANDS & WATERCOURSES COMMISSION
AND
PLANNING & ZONING COMMISSION
FRIDAY, NOVEMBER 19, 2021 – 9:00 AM**

Remote Meeting by Live Internet Video Stream and Telephone

115 The Commission discussed public education and participation. It was acknowledged that groups
116 like the lake associations play a vital role in public outreach. LUA Conroy recognized that legal counsel
117 for both the PZC and IWWC did not recommend public participation until the Commission reaches a
118 consensus of recommendations.

119

120 **6. Schedule of Meeting**

121 The Commission collectively agreed that both Wednesdays and Friday mornings would be
122 preferable. LUA Conroy requested a two-day notice to set an agenda. The following dates were agreed-
123 upon for the next four meetings.

124

125 Wednesday 12/1/2021 at 9:00 am

126 Friday 12/10/2021 at 8:30 am

127 Friday 12/ 17/2021 at 8:30am

128 Friday 1/7/2022 at 8:30 am

129

130 **7. Adjournment**

131 *Motion:* To adjourn the meeting at 10:29 a.m.

132 Made by Klemens, seconded by Neely.

133 Vote: 5-0-0 in favor.

134

135

136 Respectfully submitted,

137

138

139

140 Alison Forman, Land Use Assistant