

MEMBERS PRESENT – James Kilcoyne (JK) Chair, Bert O’Donnell (BO) Vice Chair, Arthur Lage (AL), Susan Caron (SC), Rick Carberry (PC), Craig Hannafin (CH), Eric Flint, Conservation Agent (EF); and Bill Grafton, Conservation Administrator (BG)

MEMBERS NOT PRESENT – Joe Ring (JR)

GUESTS PRESENT – Bob Galvin, Town Counsel (TC), Bill Finn (BF), Environmental Consultant/Paralegal

CALL TO ORDER – JK motions to open the meeting at 6:30 PM. CH second. Approved 6-0-0.

CHAIRMAN’S ADDRESS

- Meetings will be held remotely until further notice as per the Governor’s Emergency Executive Order of March 12, 2020, suspending certain provisions of the Open Meeting Law. All votes will be taken by roll call. Commissioners should identify themselves before speaking, and all parties should mute themselves until they want to speak.
- This meeting is being held to consider the proposed revisions to the Chapter 505 Marshfield Wetlands Protection Regulations, which have been promulgated by the Commission pursuant to its authority under Chapter 294, Section 4(c) of the Wetlands Protection Bylaw, the Home Rule authority of the Town of Marshfield, and other Federal and State statutes. The revisions were prepared with the assistance of environmental consultant William Finn, a long-time resident and the founder and first president of the NSWRA, with extensive professional experience and credentials in the legal and environmental fields.
- JK notes that the Chapter 505 regulations were originally adopted by the Commission on May 15, 1990, and have subsequently been amended through May 1, 2008, the last major rewrite. The regulations provide definitions, procedures, and standards for work in areas subject to protection under the bylaw, and prohibit activities that have a significant and/or cumulative adverse impacts on any interests protected by the bylaw. The current revision was initiated in 2018, and Town Counsel Bob Galvin has provided continuous feedback up to his final review and approval in January of 2021. The final draft was distributed to the full Commission on January 26, 2021 for their review and comment; a copy was also posted to the Town of Marshfield landing page on February 5, 2021, as well as on the Commission page. This public hearing was advertised in the Marshfield Mariner on March 3 and 10, 2021.
- The revisions provide additional definitions and procedural clarifications, as well as a new section setting forth performance standards for various resource areas.
- This hearing will start with discussion by the Commissioners, during which they may restate or revise their previous comments, followed by a public comment section in which all comments are to be addressed to the Chair, further Commission discussion, and vote on approval of the revisions or continuance of the hearing to a date certain.

PUBLIC HEARING

Revisions to Chapter 505 Marshfield Wetlands Protection Regulations.....NEW (Jim)

- JK reads the legal ad.
- Commissioner Discussion
- JK recaps new changes provided by Town Counsel to the document including font and formatting changes to create a more uniform style. Substantive changes include (1) to the “Determination of Applicability” subsection of Section 6, Procedures, striking the language “Once the Commission closes the public hearing, it shall issue a Determination within 21 days” and replacing it with “Unless there is an extension, the Commission shall issue a Determination within 21 days of receipt.” and (2) adding “other than the buffer zone” to Paragraph A3 in Section 303.1 (Septic Systems - Applicability).
- Commissioner BO notes he has assisted in the revisions for close to a year and has no further comments.
- Commissioner PC has gone through the documents, provided input and comments to Mr. Finn, and has no further comments.

- Commissioner SC is impressed with the level of detail of the new regulations, feels they will be helpful to the community, and has no further comments.
- Commissioner CH thanks Mr. Finn, BO, BG, and JK for their efforts and has no further comments.
- Commissioner AL also thanks all parties for their effort, feels the new regulations are a big improvement, and has no further comments.
- Public Comment
- Joe Pecevich (JP), 25 Wilson Road, is unclear how *de minimis* activities will be handled in terms of fees under the new bylaw. JK indicates there are no fees associated with the revisions proposed. BF notes that a “*de minimis*” activity is defined as any activity which, in the judgment of the Commission, will have minimal if any adverse effect on a resource area and does not require a conservation permit. JK adds that *de minimis* activities have to be approved as such by Commission vote. JP notes at his property there are some overgrown branches near an isolated vegetated wetland that he would like to trim so he can maintain his lawn, and would like to know how he could find out if this would qualify as a *de minimis* activity. Town Counsel Bob Galvin (TC) opines that removal of overhanging branches, particularly those that may pose a hazard, is most likely a *de minimis* activity. JP also questions whether the vernal pool definition provided in the draft bylaw is consistent with the state definition, and notes it seems ambiguous in certain sections, particularly on page 48, with a lot of qualifiers. BO believes there was discussion among Commissioners regarding the number of years required for a wetland to be considered a vernal pool, and asks BF for comment. BF recalls the discussion and believes it to be two years, per a study that will be referenced in the Commission’s Policies and Procedures manual. BG notes that part of this manual is posted on the Commission Web site, with the rest retained in the Conservation Office to be referred to under the Commission’s guidance. JP also comments that he would also like to have seen a reference to forested wetlands in the regulations, as they are an important part of Marshfield. BF notes that forested habitat are technically not resource areas defined by the state. Parts of resource areas, particularly such as bordering or isolated vegetated wetlands, can be forested, but there is no resource area defined by the state as “forested”. Aside from these instances, JP agrees with the Commissioners that the rewrite is an impressive document.
- Terry McGovern, Stenbeck & Taylor, 844 Webster Street, refers to Section 103.4, Exceptions, which concerns allowances for maintaining existing structures, and asks what the term “exceptions” references. TC indicates this was the language of the original regulations, and those involved in the rewrite sought to maintain the existing regulatory exceptions, as residents have become accustomed to them.
- TM also makes reference to the prohibition of new structures, as defined, in both VE and AO zones and notes that the AO zones in the 2020 FEMA FIRM maps encompass a significant portion of the coastal roads in Fieldston and Ocean Bluff. TM would like to know the rationale for prohibiting new structures in the AO zones given the large land area they encompass. BO notes that new state regulations regarding land subject to coastal storm flowage (LSCSF, which includes AO flood zones) is forthcoming, and this section may have to be revisited once the new state regs are out. BF agrees that MassDEP has been trying to come up with performance standards for LSCSF and in a recent meeting indicated that such standards would be out this summer. When these standards come out, BF envisions further updates to this section of the Town regulations. TC adds that under the state building code, structures in the AO zone already have to be elevated above the highest adjacent grade specified on the FEMA FIRM maps.
- John Cusick (JC), 12 Waterman Ave and Board of Public Works, agrees with TC and BF that new state regulations are forthcoming, and the Town is currently in a position of waiting to see what they are.
- TM also comments with respect to the mitigation permit referenced in the “Buffer Zone” performance standards section, and asks about the circumstances in which one would be issued. BF indicates that such a permit will only apply with respect to “buffer zone” resource areas, and will be issued as part of the Orders of Conditions for a project.
- Action Items
- At the close of public comments, JK polls the Commissioners as to whether they believe there are any action items resulting from said comments that require further follow-up. JK no, BO no, PC no, SC no, CH no, AL no.
- Approval
- TC recommends that the Commission, when it votes on approval of the revised Chapter 505 Marshfield Wetlands Protection Regulations, allow the final regulations to be reviewed by the Town’s code publisher for clerical/numerical issues and typographical errors; JK concurs, and adds that any need for further adjustments will

be recorded in writing and applied when the regulations are updated to reflect the new state regulations regarding LSCSF performance standards.

- JK reiterates Town Counsel's two substantive changes made to the draft Chapter 505 Marshfield Wetlands Protection Regulations: (1) To the "Determination of Applicability" subsection of Section 6, Procedures, striking the language "Once the Commission closes the public hearing, it shall issue a Determination within 21 days" and replacing it with "Unless there is an extension, the Commission shall issue a Determination within 21 days of receipt." (2) Adding "other than the buffer zone" to Paragraph A3 in Section 303.1 (Septic Systems - applicability).
- JK motions that the Commission adopt the draft Chapter 505 regulations with the two substantive changes as noted, said regulations to be subsequently reviewed by the Town's code publisher for clerical/numerical issues and typographical errors. BO second. Approved 6-0-0.
- After the vote, TC notes for the record that the new regulations are in effect as of now, but will be republished once revised by the code publishers. BG thanks all involved in the effort to revise the Chapter 505 Marshfield Wetlands Protection Regulations as well as Town Counsel and Town Administrator Mike Maresco for their support. JK thanks BF for his direct involvement in the effort from the start.

ADJOURNMENT – JK makes a motion to close the hearing at 7:15 PM. SC second. Approved 6-0-0.

Respectfully submitted,
Bill Grafton, Conservation Administrator

Marshfield Conservation Commission
Liz Anoja, Conservation Administrative Clerk
Eric Flint, Conservation Agent
James Kilcoyne, Chair
Arthur Lage
Craig Hannafin
Susan Caron

Bert O'Donnell, Vice Chair
Joe Ring
Rick Carberry