



# TOWN OF WARE

Planning & Community Development

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## Planning Board Minutes

October 19, 2016

**Planning Board members present:** David P. Kopacz, Sr, Rick Starodoj (Chairman),  
Chris DiMarzio, Fred Urban

**Planning Board members absent:** Joe Knight, Sr., John Chabot (Alternate)

**Public:** (as taken from the sign in sheet and observation)  
John Carroll (Selectman), Melina Bourdeau (*Ware River News*), Stuart Beckley

Chairman R. Starodoj called the meeting to order at 7:03 p.m.

1. Administrative
  - a. Approve minutes from October 5, 2016 – **Motion** by F. Urban to accept the minutes as presented. Seconded by C. DiMarzio. So voted 4/0/0.
2. Public Hearing on proposed Zoning Amendments - To Amend the Ware Zoning Bylaws to include a moratorium on medical and recreational marijuana facilities.

The Chairman opened the hearing at 7:06 and read the legal ad into the minutes. He then opened the hearing up to comments and questions from the audience.

### PUBLIC COMMENT

- J. Carroll asked if the Town would be required to allow at least one area for the facilities
- C. Dimarzio commented that the Board would use the moratorium to research that; the state may change the debate as officials receive more data on positive and negative impacts (revenue, accidents, etc.) from other states that currently allow medical and recreational use

- R. Starodoj reported that the company that was interested in having a medical facility in Ware has withdrawn their building permit. This was likely due to the proposed moratorium
- J. Mosso reported that Richard Kszaszcz was in the office today. He owns the property at 39-41 West Main Street and was planning on selling it to James McMahon (Healthwise Foundation, Inc.). He was concerned that the one year moratorium would delay the sale. J. Mosso informed him about the amendment process, encouraged him to attend tonight's hearing, as well as Town Meeting in November
- It was noted that other than the Board and J. Mosso, Selectman Carroll, Ms. Bourdeau from the *Ware River News*, and Town Manager Stuart Beckley, were the only people were in attendance

#### GENERAL DISCUSSION

- Recreational use moratorium is set for December 1, 2018 because the final regulations will not be available until September 2017
- Medical use already has regulations established by the state
- Existing medical facilities have first position for a recreational license
- D. Kopacz asked what the disadvantage would be to striking the medical moratorium amendment; medical marijuana benefits those who need it and it would help us test what would be needed for a bylaw
- R. Starodoj stated that medical facilities have first rights to recreational licenses so both need to be reviewed
- C. DiMarzio stated that legality is one of the concerns since the federal government still views both as illegal yet some states have approved it as legal; how other MA towns handle this will help Ware officials develop a thoughtful bylaw
- D. Kopacz asked how we would measure success or failure; C. DiMarzio responded that we would see how the towns that have no bylaws or marijuana bylaws have been impacted, and that Ware is in a good position to wait and let some of the early processes play out
- D. Kopacz asked the Board to keep in mind the realities of the current opioid (and its derivatives) crisis vs. the fact that marijuana has been around for centuries; that currently pot is bought in back alleyways by those who sell and introduce more illicit, addictive drugs; it's safer for marijuana consumers to purchase from an approved seller who is regulated by the state.

- C. DiMarzio stated that that would be a slippery slope, possibly allowing other drugs to be legalized
- R. Starodoj stated that if marijuana is legalized, the Town could charge 2% sales tax
- Currently, either facility is allowed under retail sales
- There was general discussion about where growing facilities are (possibly Brookfield, Springfield, Greenfield, Northampton)
- There was discussion about having a cap vs. a ban on the facilities; Chairman felt that a total halt would allow the Board to deal with them one at a time
- Legal purchase amount is less than 1 ounce; not sure \*where\* you are allowed to consume
- Parts of the state regulations contradict itself
- The Towns would be/are authorized by the state but would still be breaking federal law; discussion about federal and state law
- D. Kopacz commented that there has been little to no formal research on medical marijuana so the known medical advantages are unknown, yet FDA has patented CBD oil for medical use. C. DiMarzio stated that when the FDA views marijuana as a medicine, the pharmacies can dispense it; why should marijuana be a unique industry if it's considered medicine?

**Motion** by C. DiMarzio to recommend to the Board of Selectmen that the 2 proposed bylaw amendments (1. Medical marijuana moratorium and 2. Recreational marijuana moratorium), as written, be placed as Articles on the Warrant for Special Town Meeting in November. Seconded by F. Urban. So voted 3/1/0 (Kopacz).

Public hearing was closed at 7:41 pm.

Coldbrook Drive Todd Marion, MRT Development Next steps for road acceptance – Mr. Marion inquired as to the next steps required for road acceptance. J. Mosso sent him an email on October 11 outlining the requirements; her email included the following:

*“...outstanding items that **need to be resolved by the PB's October 19 meeting** before you can have a hearing with the Board of Selectmen:*

- *Sign off by an engineer that a shorter guard rail is acceptable*
- *2 cobra streetlights w LEDs: one at the intersection of Coldbrook and Babcock Tavern Road, and one at the intersection of the loop inside the subdivision*
- *Engineer certification that fence on top of retaining wall is not necessary – **OR** install fence on top of retaining wall*

- 2 STOP signs and stop lines: one at the intersection of Coldbrook and Babcock Tavern Road, and one at the intersection of the loop inside the subdivision
- Submit a maintenance schedule to the PB for the detention basin
- Show evidence that the deed to lot 20 clearly states that the owner of that lot is responsible for maintenance of the sidewalk from Babcock Tavern Road to the loop – i.e. from Babcock Tavern Road to the western boundary of lot 20 (which includes the portion of the sidewalk that doesn't front on any of the lots within the subdivision). I realize the deed for this lot has not been recorded yet so a draft is sufficient.

Once the above items have been completed, you would then:

- request a written report from **BOTH** the Planning Board and DPW recommending acceptance
- submit deed conveying clear title to the subdivision road
- submit title certificate
- Submit As-built plan
- Submit wording for warrant article

You can do the above 5 points up until November 1. Nov. 1 is the date when the Board of Selectmen could hold a hearing. The warrant article and "as built" plan must be submitted to the Selectmen by October 13."

Mr. Marion responded that he would try to get it done by tonight's meeting. We have not heard from him and he was not at tonight's meeting.

3. Seaboard Solar, Surety bond and project status, Draft Decommissioning Assurance Agreement, PILOT – Town Counsel advised that Nautilus Solar should provide a cost estimate for decommissioning, however the Board was satisfied with not having an estimate. J. Mosso will change all language to "Seaboard Solar and any subsequent owners or assignees". With that change, the Board signed the Agreement.
4. Other
5. Adjourn – **Motion** by F. Urban to adjourn at 7:47 pm; seconded by C. DiMarzio.

**Documents reviewed at meeting:**

Draft bylaw amendment moratorium on medical marijuana facilities  
Draft bylaw amendment moratorium on recreational marijuana facilities  
Seaboard Solar Draft Decommissioning Assurance Agreement

**Documents received at meeting:**

None

*Respectfully submitted by  
Judi Mosso, Assistant to the Director*

<b>Minutes Approved on:</b> _____	
Starodoj	_____
DiMarzio	_____
Urban	_____
Kopacz	_____
Knight	_____