



Watertown Town Council

Administration Building
149 Main Street
Watertown, MA 02472
Phone: 617-972-6470

ELECTED OFFICIALS:

Mark S. Sideris,
Council President

Vincent J. Piccirilli, Jr.,
Vice President &
District C Councilor

Caroline Bays
Councilor At Large

Anthony J. Donato,
Councilor At Large

Susan G. Falkoff,
Councilor At Large

Anthony Palomba,
Councilor At Large

Angeline B. Kounelis,
District A Councilor

Lisa J. Feltner,
District B Councilor

Kenneth M. Woodland,
District D Councilor

TOWN COUNCIL MEETING TUESDAY, NOVEMBER 27, 2018 AT 7:15 P.M. RICHARD E. MASTRANGELO COUNCIL CHAMBER MINUTES

1. ROLL CALL

Council President Sideris called to order a regular meeting of the Town Council at 7:15 p.m. in the Richard E. Mastrangelo Chamber, Administration Building. Those present were Councilors Caroline Bays, Anthony J. Donato, Lisa J. Feltner, Angeline B. Kounelis, Vice President Vincent J. Piccirilli, Jr., Kenneth M. Woodland, and Council President Mark S. Sideris. Councilor Susan G. Falkoff arrived at 7:22 p.m.; Councilor Anthony Palomba arrived at 7:29 p.m. Also present were Michael Driscoll, Town Manager, Mark Reich, Town Attorney, and Marilyn W. Pronovost, Council Clerk.

2. PLEDGE OF ALLEGIANCE

3. PUBLIC FORUM

There were no speakers for the Public Forum.

4. EXAMINATION OF RECORDS OF PREVIOUS MEETINGS

Minutes of the November 13, 2018 Town Council Meeting

Councilor Piccirilli moved to adopt the minutes of November 13, 2018 as written; Councilor Woodland seconded the motion. The motion was adopted unanimously on a voice vote.

5. PRESIDENT'S REPORT

President Sideris had no items to report on.

6. PUBLIC HEARINGS

A. Public Hearing and Vote on Proposed Zoning Text Amendments Relating to the [Replacement of the Adult Use Marijuana Moratorium with Regulations for Adult Use Marijuana Establishments](#) and to Modify

Medical Use to be Consistent and to Consider Regulations Including Within Which Zoning Districts Such Use is Allowed, Applicable Buffers, and the Number of Establishments Allowed

Mr. Magoon, Director of Community Development and Planning, stated that the Town placed a moratorium on Recreational Marijuana facilities after the ballot measure for the adult use of recreational marijuana was adopted in order to develop regulations for such facilities. The proposed regulations would terminate the moratorium and would

- ~ Provide a minimum distance of 500 feet between marijuana establishments to prevent clustering
- ~ Require a 500 foot buffer around any pre-existing private or public schools and parks
- ~ Limit locations to the Commercial Zones: CD, LB, I1, I2, I3, PSCD, and RMUD
- ~ Require that the establishment be authorized by a Special Permit
- ~ Modify the current Medical Marijuana regulations to be consistent with the adult use of marijuana
- ~ Limit the number of establishments to 3 – 20% of the number of licensed liquor stores in Town as permitted by State law.

The Town could elect to ban such facilities but it would have to do so as a ballot question.

The language provides definitions for marijuana, medical marijuana, medical establishments, medical marijuana treatment centers, adult use marijuana establishments and states where they are permitted to locate. Marijuana laboratories were not included as marijuana establishments but rather regulated as a laboratory and not a marijuana business.

John Airasian – 43 Bailey Road – Stated marijuana has a negative effect on the developing brain of a child, who needs to be protected. He urged making the regulations as tight as possible.

Madison Palms – Brighton - A founder of an agricultural technological company – He asked the Council to consider the difference between retail sales operations and research cultivation facilities. The same regulations for both operations may not be appropriate as they have different effects on the community.

Peter Airasian – Stated his concern regarding the effect marijuana use has on children. He stated the quality of current marijuana is crack pipe quality and asked for tight regulation of the establishments.

Curtis Whitney – 43 Grandview Avenue – Stated that he preferred the regulations to be for medical marijuana and research of medical use in the

Industrial Zones. The town is small and does not need recreational use facilities.

Ann Asnes – 185 Bellevue Road – Stated the town is too small for medical use facilities and would prefer research and medical use facilities.

Pribhu Hingorani – 124 Watertown Street – Stated that the current operating facilities in the Commonwealth generated \$2,200,000 revenue from the first week of sales. Watertown could benefit from these facilities with properly created host agreements and could use the funds to educate about drug abuse, provide police enforcement, and assist with educational needs for the community.

Madison Palms – Stated his support for the concern of retail dispensaries. He further stated that there is an opportunity and a need for research and development of the plant for further medical applications.

There being no other speakers, President Sideris closed the public hearing.

Attorney Reich explained that under state law (Chapter 94G, §3) to limit marijuana use to only medical and research facilities would require a ballot question. The purpose of this change is to provide general regulation because it is now legal to sell marijuana for recreational purposes and without any regulation, there would be no local regulation of the facilities.

Councilor Piccirilli made a motion to adopt the amendment to the Zoning Ordinance for the adoption of adult use of marijuana as presented; Councilor Falkoff seconded the motion.

There was extended discussion by the Council; some points made included:

- ~ The 500 foot buffer around open spaces was basically to limit consumption in the area where people, especially children, congregate; however, this is inconsistent regulation as similar restrictions were not made for liquor stores
- ~ If the purpose of the regulations is enhanced scrutiny of a product, then similar scrutiny should be provided to similar substances such as liquor and it was not when licenses were added
- ~ Buffer zones do not include day care areas because children so young would not be aware of what is happening; however, it was noted that such young children walk by these places and are affected
- ~ Smoking is basically limited to a person's residence; it cannot be consumed at the retail place or on public property
- ~ Definitions in the ordinance are adopted from the M.G.L. 94 §1
- ~ Social consumption establishments are included in the definition. Although regulations are not yet adopted by the Cannabis Control

Commission for this activity, it would be regulated by the ordinance when promulgated

- ~ Laboratories are prohibited by state law to be both a research facility and a retail establishment
- ~ The I1, I2, and LB zones abut residential areas, and such facilities could affect the quality of life of those neighborhoods
- ~ Under the proposed ordinance, an existing laboratory could complete marijuana testing and research without approval if there is no change to the building and it could be within a buffered area
- ~ There seemed to be an inconsistency in the use of the word food v. edible cannabis or marijuana products; the definition should be consistent with the state definitions
- ~ Economically such places can provide significant revenue to the town
- ~ If the Town wants to limit the number of marijuana establishments to 20% or more of the current liquor licenses, wording must be included in the ordinance
- ~ There was a need to remove the references to retail marijuana establishments to ensure that the regulation affect all marijuana facilities
- ~ The Special Permit process should not be limited to laboratories over 4,000 square feet; the regulations should be tightened to include any sized facility so that the Town is aware of all laboratories in town.

Councilor Woodland made a motion to strike the language in §5.03 regarding the 500 foot buffer. There being no second, the motion did not move forward.

Councilor Piccirilli made a motion to strike the word “food” in page 2 of 2 and to replace it with the word “edible”; Councilor Falkoff seconded the motion. Councilor Feltner stated that it is referred to as “edible cannabis or marijuana product”. Councilor Piccirilli amended his motion to strike the word “food” in page 2 of 2 and to replace it with the words “edible cannabis”; Councilor Woodland seconded the motion. The motion was adopted unanimously on a voice vote.

Councilor Piccirilli made a motion to expand Note (16) in §5.03 to include the following:

The maximum number of marijuana retailers as identified within §8.04 C Definitions-Marijuana Establishment, shall be limited to 20% of the liquor licenses issued pursuant to M.G.L. Chapter 138 Section 15 (commonly known as package stores).

Councilor Falkoff seconded the motion.

The Councilors made the following points in their discussion regarding this motion:

- ~ There was a concern regarding the strict scrutiny of this business when a similar scrutiny was not asked of liquor establishments

- ~ Strict scrutiny should be in place because this is a new enterprise and it may be loosened with time as the community becomes accustomed to it
- ~ If a school, such as a private one, were to be located next to an existing marijuana establishment, that would be their choice; however, once they are established a 500-foot buffer zone would be created around the school for any new establishment.
- ~ There will be no shortage of competition for these establishments; therefore, it will force applicants to be prepared for the Special Permit process due to the limited opportunity
- ~ There is no need for the amendment because the buffers naturally will limit the number of establishments along with the application of the Special Permit process by the Planning Board and the Zoning Board of Appeals

The motion was adopted on a roll call vote of 7-2. All Councilors voted in the affirmative, except for Councilors Palomba and Woodland.

Councilor Piccirilli made a motion to delete the word “Retail” in the Section Title; Subsections A and B; and Section 5.03; Councilor Woodland seconded the motion. The motion was adopted unanimously on a voice vote.

Councilor Piccirilli moved that the definition of Marijuana Establishment as contained in §8.04 C be revised by deleting the language “Except that a marijuana testing laboratory shall be defined as a use permitted as Laboratories engaged in research, experimental and testing activities” as found therein and inserting the language “marijuana testing laboratory” after the words “marijuana cultivator” in said definition and that §5.01 Table of Uses be amended by deleting from Category 5 e therein the language “marijuana testing laboratories”; Councilor Feltner seconded the motion.

The purpose of the amendment would be to make laboratories subject to the Special Permit process. As such, it would be included in the 20% limitation even though it is not a retail establishment. Mr. Magoon clarified that the 20% amendment passed affects only retailers, thus not include any marijuana laboratory.

The Council discussed this change and the following issues were considered:

- ~ The need for a Special Permit was questioned as being unnecessary; that the increased scrutiny was not justified and that there were other methods that would be applied to scrutinize the laboratory
- ~ There was a need to provide oversight of Laboratories so that the community was aware of their operations

- ~ There was a need to determine what was being accomplished with the amendment: Should marijuana laboratories be regulated like other laboratories or should they be treated like a retail establishment
- ~ It was noted that the State Cannabis Control Commission requires all marijuana laboratories to be state licensed whether they provided research for pain relief or tested for the quality and purity of the product and that the process is stringent
- ~ One of the purposes of the change was to make the laboratories subject to the Special Permit process regardless of size and to have the same boards apply the regulations on a consistent basis
- ~ If the Laboratories were placed in the same category as Marijuana Establishments, then the locations for such laboratories would be expanded to include Limited Business (LB) and Central Business (CB) zones

Councilor Piccirilli withdrew his previous motion and then moved to strike the words “Marijuana Testing Laboratories” from 5 e in §5.01 and to add a new row – 5 m – and insert the words “Marijuana Testing Laboratories” permitted in the I1, I2, I3, and PSCD zones and requiring a Special Permit regardless of the square footage; Councilor Feltner seconded the motion.

The Council discussed the following matters:

- ~ The State requires the completion of a Community Host Agreement, and the Town would be notified at that point about the Laboratory
- ~ The Special Permit process allows the community to know what is happening, something that is not done with the Host Agreement

Councilor Donato noted that the RMUD zone needed to be included in the motion and that the use was left blank for other zones. To clarify this, Councilor Piccirilli amended his motion to strike the words “Marijuana Testing Laboratories” from 5 e in §5.01 and to add a new row – 5 m – and insert the words “Marijuana Testing Laboratories” permitted in the I1, I2, I3, PSCD, and RMUD zones and requiring a Special Permit regardless of the square footage, and to list N in the other district zones.

Councilor Palomba raised a concern about the definition of Medical Testing Laboratory. Councilor Piccirilli then again amended his motion. The amended motion read to strike the words “Marijuana Testing Laboratories” from 5 e in §5.01 and to add a new row – 5 m in §5.01 with the title of “Marijuana Testing Laboratories” to be permitted in the I1, I2, I3, PSCD, and RMUD zones and requiring a Special Permit regardless of the square footage, and to list N in all other zones; to strike the last sentence of the definition “Marijuana Establishment” which reads “Except that a marijuana testing laboratory shall be defined as a use permitted as Laboratories engaged, in research, experimental and testing activities, as listed in Table 5.01 and to insert in its place the words “Marijuana testing laboratories shall

be defined as found in M.G.L. 94G and the regulations promulgated thereunder.” Councilor Feltner seconded the motion. The motion was adopted on a roll call vote of 6-3. All Councilors voted in the affirmative, except for Councilors Bays, Palomba, and Woodland, who voted in the negative.

Councilor Piccirilli moved to adopt the Ordinance as amended; Councilor Falkoff seconded the motion. The motion was adopted on a roll call vote of 8-1. All Councilors voted in the affirmative, except for Councilor Kounelis who voted in the negative.

B. Public Hearing and Vote on Proposed Zoning Text Amendments to Create New Section 8.05, Amend 9.03, Section 5.04, and Other Sections as Necessary of the Zoning Ordinance to [Require Renewable Energy Systems for Certain Projects](#) Requiring Site Plan Review

Mr. Magoon stated that this change creates a new section, 8.05, requiring solar energy (photovoltaics) to be installed on a new Special Permit building with 10,000 square feet of commercial or industrial usage or residential units of 10 or more to cover 50% of the roof and 90% of the garage space or a ground mounted or roof top system. There is an exemption if the roof does not have solar access.

Some points made in the discussion of the Council were

- ~ Solar systems are not included in the building coverage or impervious cover requirements
- ~ The change does not apply to single or two family constructions
- ~ The State Building Code now requires buildings of 10,000 square feet to create a solar zone
- ~ The ordinance does not exempt town buildings from the solar requirement

President Sideris opened the Public Hearing.

Jocelyn Taggart – Stated her support of the change and mentioned that solar panels are exempt from sales tax and having solar does not increase the assessed value of the property.

Curtis Whitney – 43 Grandview Avenue – Asked what would happen if there were unintended consequences to neighbors. Mr. Magoon stated solar energy is an evolving industry that it is addressing these concerns and the Town would work with property owners to alleviate the consequences.

Libby Shaw – Stated that she supported solar energy but was concerned that it is not being used to reduce the mature green canopy on private property.

Ed Lewis – Watertown Energy Manager – Stated this ordinance aids local industry as installers are local, while fossil fuel money leaves the area; reduces fossil fuel dependence, pollution, and the carbon footprint; provides buildings that attract clientele interested in green buildings; and maintains the Town's tradition of sustainability.

Brian Hebeisen – 170 Worcester Street – Member of the Environment and Energy Efficiency Committee – Stated that the Committee unanimously supported the program; that it is economically strong for developers because the payback is quick and that there are state and federal tax credits for such programs.

There being no other speakers, President Sideris closed the public hearing.

Councilor Piccirilli moved to adopt the zoning amendment for solar energy as presented; Councilor Feltner seconded the motion. The motion was adopted unanimously on a roll call vote.

C. Public Hearing and Vote on Proposed Zoning Text Amendments Relating to LEED Standards: Amend Section 9.03 to Require [LEED Silver Certifiability in New Developments](#) that Require Site Plan Review

Mr. Magoon, stated that this change would extend the Silver Certifiable standard from just the RMUD to the entire community; that any development requiring a site review would be affected; and that it would not apply to private residences.

President Sideris opened the public hearing. There being no speakers, the public hearing was closed.

Councilor Piccirilli moved to adopt the zoning amendment to require LEED Silver Certifiability as presented; Councilor Falkoff seconded the motion. The motion was adopted unanimously on a roll call vote of 8-0. Councilor Woodland was absent during the roll call.

D. Public Hearing and Vote on Proposed Zoning Text Amendments Relating to Affordable Housing Section 5.07, Inclusionary Zoning, to

- Add Definitions for [Assisted Living](#), Independent Living and Dementia Care/Skilled Nursing,
- Create an Affordable Unit Contribution for Assisted Living Facilities Based on the Number of Assisted Living Units (5% for Up To 75 Units and 10% for 76 or More Units),
- Allow a Fee in Lieu Contribution for Assisted Living Units, and
- Exempt Dementia Care and Skilled Nursing from the Requirements of 5.07

Mr. Magoon stated that assisted living projects do not often provide for affordable units. He stated that this is difficult to determine as it includes the construction costs and the required ongoing services. Based on that concern, it was determined that projects with up to 75 units or less would have 5% affordable units and projects with 76 units or more would include 10% affordable units. The payment in lieu of creating the affordable units would be not less than \$200,000 per unit. Dementia care and skilled nursing would not be part of the Section 5.07 requirements.

Among the items the Council discussed were

- ~ The payment in lieu of affordable units was being offered but set high so as not to create an incentive for its use
- ~ Compliance monitoring of accurate rental price would be completed by the Community Development and Planning
- ~ The payments in lieu, while substantial, are not sufficient to fund other assisted living projects; therefore, the funds received are not segregated for a specific purpose
- ~ Some developers agreed that the 5% and 10% ratios are sufficient to have and still provide a profit

President Sideris opened up the public hearing.

Fred Reynolds – Chair, Housing Partnership – Stated that the group was concerned about not discouraging housing. He stated that assisted living is very difficult to maintain for an extended period unless someone is wealthy.

Ken Leitner – 75 North Beacon Street – Stated that the affordable housing is unclear for the Overlay District and is unfair to a developer.

Abhimanyu Bhakta – 100 North Beacon Street – While he agreed with the need for affordable housing, he stated that the AMI does not take into consideration the service component costs and this would deter developers. He urged the consideration of a calculation that would provide a calculation for assisted living.

David Leon – Housing Partnership – The affordable housing component is consistent with the Town's Comprehensive Plan, especially for seniors. The number of affordable units was lowered due to the need for service costs and that this is a modest attempt at a solution.

Pribhu Hingorani – 124 Watertown Street – The project he would like to complete is in the overlay district and requires 10% affordable housing, which is economically not feasible for development. If the amount were reduced to 5% that would be doable.

Clifford Cook – Housing Partnership – Stated the 5% and 10% limits were carefully considered. He also stated that funds are available for Assisted Living such as those for Veterans and their surviving spouses and the State Medicaid program.

Councilor Piccirilli made a motion to adopt the proposed zoning amendment for affordable housing for independent assisted living as presented; Councilor Feltner seconded the motion.

Councilor Piccirilli made a motion for the Town Council meeting to continue beyond 10:30 p.m.; Councilor Feltner seconded the motion. The motion was adopted on an 8-1 voice vote. All councilors voted in the affirmative except for Councilor Falkoff who voted in the negative.

Discussion regarding the amendment touched on the following matters:

- ~ The Overlay District applies to only Brigham House and requires a 10% affordable component; if anyone wanted to develop an assisted living project in an area where it is not presently permitted and requested rezoning, the 10% limit would apply. This matter was not discussed in group discussions.
- ~ The number of units must be sufficient to provide for development costs as well continuing maintenance costs
- ~ The development would be deed restricted v. unit restrictions
- ~ The maximum number of affordable units for a 75-unit development would be 4 and the minimum of affordable units for a 76 or more unit development would be 8.
- ~ Independent units would be subject to the upper limits and assisted living units would be subject to the new limits
- ~ Currently assisted living is allowed by Special Permit in the I3, RMUD, LB, CB, NB, R.75, and R1.2 zones; there are a sufficient number of locations available

Due to the lack of clarity in the affordable housing table requirements, Councilor Piccirilli moved to postpone the vote to the December 11, 2018 Town Council meeting; Councilor Falkoff seconded the motion.

7. REPORTS OF COMMITTEES

- A. Committee of the Budget and Fiscal Oversight Report Regarding Recommendations on the [FY 2020 Budget Priority Guidelines](#) – Vincent Piccirilli, Chair

ACTION ITEM: That the Town Council Adopt the FY 2020 Budget Policy Guidelines as Compiled by the Committee of the Budget and Fiscal Oversight

Councilor Piccirilli moved to table the Committee Reports for Items 7A and 7C until the December 11, 2018 Town Council meeting; Councilor

Feltner seconded the motion. The motion was adopted unanimously on a voice vote.

- B. Committee on Economic Development and Planning Report Regarding the [Appointment of Michael Brangwynne to the Zoning Board of Appeals as an Alternate Member](#) Term that Expires on February 15, 2020 – Kenneth Woodland, Chair

Councilor Woodland read the Committee Report. Councilor Piccirilli moved to accept the report; Councilor Woodland seconded the motion. The motion was adopted unanimously on a voice vote.

Councilor Woodland move that the Town Council confirm Michael Brangwynne for appointment to the Zoning Board of Appeals as an Alternate Member for a term that expires on February 15, 2020; Councilor Piccirilli seconded the motion. The motion was adopted unanimously on a voice vote.

- C. Committee on Media and Public Outreach Report Regarding the [Items for Committee Discussion and Recommendations](#) – Anthony Palomba, Chair

ACTION ITEM:

That the Town Council Request that the Town Manager Publish a Link to the Miscellaneous Items Emails on Both the Town Council's and Town Manager's Pages on the Town Website and Add it as a Separate Option Under the Notify Me List.

For the minutes on this item, please see Item 7A.

8. NEW BUSINESS

There were no new business requests.

9. COMMUNICATIONS FROM THE TOWN MANAGER

Mr. Driscoll announced that on Thursday, December 6, 2018 at 5:00 p.m., the Commander's Mansion would host its annual holiday Open House. He also announced that on Friday, December 7, 2018 at 4:30 p.m., the Watertown Savings Bank and the Rotary Club would be sponsoring the annual Tree Lighting Ceremony in the Square with a reception following at the Watertown Savings Bank.

10. REQUESTS FOR INFORMATION/REVIEW OF LIST OF PENDING MATTERS

Councilor Kounelis asked for information regarding the status of the Network Support Computer Coordinator. While she received a response, she felt it was insufficient and requested an update on the status of the position and why it has been funded but not filled since 2012.

Councilor Falkoff requested an update on the milestones of the Comprehensive Plan.

11. ANNOUNCEMENTS

Councilor Palomba announced that on Thursday, December 6 at 5:00 p.m., the Media and Public Outreach Committee would be meeting. The guest speaker, Matt Severance, the Senior Accountant for Local and State Government from Everbridge would discuss what services Everbridge offers and what the Town might consider obtaining.

12. PUBLIC FORUM

There were no speakers for the Public Forum.

13. RECESS OR ADJOURNMENT

Councilor Piccirilli moved to adjourn the meeting; Councilor Feltner seconded the motion. The motion was adopted unanimously on a voice vote. The meeting adjourned at 10:57 p.m.

[ADDENDUM](#)

I hereby certify that at a regular meeting of the Town Council for which a quorum was present, the above minutes were adopted by a vote of 9 for, 0 against, 0 present on January 22, 2019.

Mark S. Sideris, Council President
s:/MWP

**TOWN COUNCIL MEETING
TUESDAY, NOVEMBER 27, 2018 AT 7:15 P.M.
RICHARD E. MASTRANGELO COUNCIL CHAMBER
LIST OF DOCUMENTS**

1. Minutes of the Town Council Meeting – November 13, 2018 – Item 4
2. Planning Board Report Regarding the Siting of Retail Adult Use Marijuana and Medical Marijuana Treatment Centers – November 12, 2018 – Item 6A
3. Planning Board Report Regarding a Zoning Text Amendment for Solar Energy Systems – November 12, 2018 – Item 6B
4. Planning Board Report Regarding the Zoning ordinance Amendment for LEED Silver – November 12, 2018 – Item 6C
5. Planning Board Report Regarding a Zoning Text Amendment to Amend Section 5.07, Affordable Housing Requirements in Regard to Assisted Living – November 12, 2018 – Item 6D
6. Committee of the Budget and Fiscal Oversight Report Regarding Recommendations on FY2020 Budget Priority Guidelines – November 5, 2018 and November 27, 2018 – Item 7A
 - A. FY 2020 Budget Priority Guidelines Worksheet
 - B. FY 2020 Budget Priority Guidelines For Approval by the Town Council
 - C. FY 2020 Budget Priority Guidelines Ranking Sheet
7. Committee on Economic Development and Planning Regarding the Appointment of Michael Brangwynne for Appointment to the Zoning Board of Appeals – November 15, 2018 – Item 7B
8. Committee on Media and Public Outreach Regarding Future Items for Discussion and Recommendations – October 25, 2018 – Item 7C