
Marijuana Advisory Committee Minutes

Monday, January 11, 2016 7:00pm
Sealing Cove Business Center

Committee Members:

**Levi Albertson, Andrew Hames, Joseph D'Arienzo,
Pamela Ash, Darrell Windsor, Steven Eisenbeisz,
Bob Potrzuski, Jay Stelzenmuller**

I. CALL TO ORDER

Chair Albertson called the meeting to order at approximately 7:08pm.

II. ROLL CALL

Present: Levi Albertson, Joseph D'Arienzo, Pamela Ash, Darrell Windsor, Steven Eisenbeisz, Bob Potrzuski, Jay Stelzenmuller.

Absent: Andrew Hames (excused)

Staff: Municipal Attorney Robin Koutchak, Senior Planner Michael Scarcelli, Paralegal Reuben Yerkes

III. AGENDA CHANGES: None

IV. APPROVAL OF MINUTES: M – D'Arienzo / S – Windsor, motion passed unanimously

V. PERSONS TO BE HEARD/CORRESPONDENCE:

Aaron Bean stated that he found a testing facility in California that can give estimates of tetrahydrocannabinol (THC) content. Eisenbeisz asked if the amount shown would be contingent on how the given plant was grown. Bean responded that was correct. Stelzenmuller asked what the cost would be to get a sample of THC and cannabidiol (CBD). Bean responded that he did not know. Potrzuski stated that it was still necessary to meet the requirements of the State code regarding testing requirements.

VI. REPORTS:

Potrzuski stated that he was pleased with the work that the Committee had accomplished so far.

VII. UNFINISHED BUSINESS:

Planning Dept. Presentation:

Eisenbeisz asked why conditional use permits where the method that was being assessed. Senior Planner Scarcelli stated that it was a determination made by the Committee at past meetings. He said that he could assess permitted zoning as well. He stated that odor would be a potential impact resulting from marijuana establishments, and that it would be difficult to quantify such an impact. He added that common sense will have to be employed in these scenarios. Senior Planner Scarcelli stated that crime has been shown to decrease in areas in which there have been five or more conditions to the conditional use permit that has been implemented.

Chair Albertson asked if the State did allow for a minimum buffer of 200 ft., if it would have to be a conditional use. Senior Planner Scarcelli responded that the buffer was entirely in

the hands of the State. Senior Planner Scarcelli stated that when you have two types of permitted uses in close proximity that are not harmonious, they may still work out if their hours of operation don't conflict. Eisenbeisz pointed out that in some instances, precedent is given to the given permit that predates the other permit with which there is a conflict.

Eisenbeisz asked with regard to calculating distance, 3AAC.306.010 states that the distance specified must be measured from the shortest pedestrian route from the public entrance of the building in which the licensed premise would be located, to the outer boundary of the school, recreation, or youth center, or the main public entrance of a facility in which religious services are regularly conducted. He continued that in his interpretation, that provision specified that the distance was measured from entrance to entrance. Senior Planner Scarcelli stated that he read that provision differently, but he agreed that it was to the entrance.

Eisenbeisz stated that he felt that a permitted use may make more sense in an industrial zoned location. Chair Albertson asked if the conditional use permit (CUP) process requires the planning commission sign off on anything. He added that he hasn't seen anything that suggests that marijuana businesses necessitate a CUP. Windsor stated that if the Committee was going to recommend permitted use as opposed to CUP, then there would have to be a tremendous amount of code changes implemented.

Stelzenmuller asked about when the Planning Commission schedules a public hearing, if there is a large number of people who are against legalization, and they show up to that meeting, what potential is there that they could impede the progress of the given application. Senior Planner Scarcelli stated that once all comments are received, then staff does an objective analysis of the circumstances. He added that an establishment being shut down is unlikely, unless it is shown that there is a danger to the public, or that they are in violation of their permit.

Chair Albertson asked if it would create more work to change code to accommodate permitting or to go through the CUP process for each application. Eisenbeisz stated that permitted use is not going to be palatable to the public on all zone types. He added that he expects there to be only about ten CUP applications pertaining to marijuana use.

Chair Albertson stated that he did favor a permitted use as opposed to CUP processes so as to limit government intervention in the business sector. Potrzuski stated that with regard to enforcement the CUP process lent itself well to that objective. He continued that it afforded a vehicle by which a recalcitrant establishment could be corrected or stopped entirely in extreme cases. Windsor added that it also helps with public perception given the opportunity for public comment in the CUP process.

D'Arienzo asked if any of these CUP's would have a sunset. Senior Planner Scarcelli stated that he had removed any language that pertained to sunsets. He added that the planning commission could technically add that language back in if they wanted to. He added that the annual review is a softer method of achieving the same thing as the sunset, in the event that there is something that is peculiar to a given application.

Chair Albertson asked if the Committee should go through each type of zoning and address them on their own merits, such as making the industrial zoning a permitted use as opposed to CUP. Eisenbeisz stated that he was not in favor of blanket CUP process for all zone types.

He felt that certain zoning should have permitted use for certain types of permits. He added that industrial should be permitted for several uses, but not retail. He stated that everything in C1 and C2 should be permitted as opposed to CUP. He added that he was open to other opinions. Senior Planner Scarcelli stated that in central business district zoning (CBD) retail is permitted, as is horticulture. D'Arienzo stated that his only concern in the CBD would be odor. Chair Albertson added that State regulations prohibit odor from escaping, so that would be a deal breaker for that permitted user anyway.

Stelzenmuller asked if housing located in industrial zoning would create any kind of conflict if marijuana was permitted in industrial. Eisenbeisz stated that if you move into an industrial zone, you have foregone the protections that would have been afforded you if you had moved into a residential zone. Senior Planner Scarcelli stated that some municipalities have made the decision that a marijuana establishment cannot set up next to a residential user, even if it is in a zone that would otherwise be favorable to the marijuana establishment.

Eisenbeisz stated that by permitting marijuana in industrial, the Committee would be encouraging other similar establishments from setting up in the same zoning.

Stop: 8:27

Start: 8:33

Testing Facilities and Protocols:

Chair Albertson asked if it might be a good idea to ask Mr. Aaron Bean to present to the Committee. Eisenbeisz stated that was not necessary. He stated that there was contradictory information in Mr. Bean's letter. He continued that the State was very specific as to what it wanted tested, and that the "best means" language was geared toward the best means available to still meet their required testing. He felt that a vendor can propose to the state how it will meet the requirements of the code without a State testing facility. D'Arienzo added that he felt that the State intends to stick to their standards, to include the required THC content.

Chair Albertson pointed out that the Committee doesn't have to take any action on the States testing requirements. The Committee made the decision to table the testing discussion indefinitely.

VIII. NEW BUSINESS:

Discussion of resolution requesting the State share half of the excise tax:

Chair Albertson pointed out that he would like to see language citing the fish landing tax in the resolution so that the State can see a precedent.

Stelzenmuller pointed out that it was the citizenry of the State who brought the ballot question before voters resulting in the legalization of marijuana and not legislators. He felt that the people should benefit from the tax revenue the State will enjoy resulting from the industry created by that vote. Eisenbeisz stated that his understanding was that some of the money was going to go to new troopers hired to enforce the new rules. Ash said she liked the resolution because she didn't feel that it was appropriate to tax industry in addition to the sizable State taxation.

Medicinal Non-Psychoactive

M – Potrzuski/ S- Eisenbeisz, table the medicinal/non-psychoactive discussion until next week.

Vote: 6 Yea, 1 Nea. Motion passed.

Invite City Wastewater Department on January 18 and City Electric Department on January 25.

M – Potrzuski / S – Windsor, to hear from the City Departments on the days specified by staff. Motion passed unanimously.

IX. PERSONS TO BE HEARD:

Lindsey Evans stated that she put in her application to serve on the Committee. Stelzenmuller pointed out that Ms. Evans has worked for years at the hospital with elderly people and that he was impressed with her resume.

X. ADJOURNMENT:

A. Agenda items for next meeting.

Hear from City Wastewater Department
Medicinal/non-psychoactive marijuana
Discuss revenue sharing resolution

B. Set next meeting date.

Monday, January 18, 2016 at 7PM.

M – Windsor/S – Potrzuski, moved to adjourn at approximately 9:10pm. Motion carried unanimously.

Attest:
Reuben Yerkes, Paralegal