
Marijuana Advisory Committee Minutes

Friday, February 19, 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, Lindsay Evans**

I. CALL TO ORDER

Chair Albertson called the meeting to order at approximately 7:05pm.

II. ROLL CALL

Present: Levi Albertson, Joseph D'Arienzo, Andrew Hames, Pamela Ash, Darrell Windsor, Bob Potrzuski, Lindsay Evans.

Absent: Steven Eisenbeisz(excused)

Staff: Senior Planner Michael Scarcelli, Paralegal Reuben Yerkes

II. AGENDA CHANGES: M Ash / S – Windsor, motion to move packaging/serving size discussion to the bottom of the agenda. Motion failed.

IV. APPROVAL OF MINUTES: M – Potrzuski / S – Windsor, motion to approve minutes from the February 8 meeting, motion passed unanimously

V. PERSONS TO BE HEARD/CORRESPONDENCE:

Marge Esquiro stated that she is confused about what happens when the State opens for receiving license applications. She added that some communities can have regulations more stringent than the State regulations.

Karen Christener stated that the planning Commission chose to send the permitting issue back to the Marijuana Advisory Committee.

VI. REPORTS:

Senior Planner Michael Scarcelli recounted the activities of the Planner Commission the preceding Tuesday. He added that the Planning Commission chose to return the zoning recommendations forwarded to them by the MAC, back to the Committee for reconsideration of conditional use permit (CUP) vs. permitted use. He stated that the Planning Commission was particularly concerned with security requirements.

Chair Albertson asked why a marijuana business would be treated differently from any other business. Scarcelli pointed out that while security requirements are not in City code, until a given business type is addressed in code, it is treated as if it is prohibited.

Chair Albertson asked if there is any other industry that is required CUP throughout all zones. Windsor stated that daycare establishments are required CUP in all zones.

Ash stated that given all the crime currently dealt with by the Police Department, dealing with black market and associated drug use, it should be able to handle the occasional burglary at a marijuana establishment.

Evans stated that she also felt that a marijuana establishment should be treated like any other business. Potrzuski pointed out that the CUP application process was not known as a difficult process. He added that it is often characterized as being easy.

Windsor stated that the Planning Commission felt that it is a new industry, and that it was prudent to make use of the CUP process. Windsor continued that it is a safety concern given that it is a new industry, and that the CUP process was ideally suited to enforcement. Ash asked if activist citizens were to protest a CUP renewal, would the Planning Commission take that into consideration. Windsor and Potrzuski stated that they both understood that they would not consider activist protest or non-objective protest as a reason for CUP reconsideration.

Stelzenmuller asked if Planning and Zoning wanted Gary Paxton Industrial Park (GPIP) and the Central Business District (CBD) to be CUP. Senior Planner Michael Scarcelli stated in the affirmative. Scarcelli stated that if there is support for the CUP, then the logical course of action would be to endorse it and go forward. He added that in the future, things could be substantially liberalized. Stelzenmuller stated that while he did not agree with the uniform CUP process, he understood that logic as a way to proceed. Scarcelli stated that the CUP process has become simplified over the past year.

Chair Albertson stated that he was uncomfortable with the members of the Planning Commission making it more difficult for marijuana businesses to get established. He continued that it would be difficult to liberalize government oversight of business in the future, simply based on precedent established by governmental conduct, specifically that of generally increasing regulation as opposed to decreasing.

Regarding a potential work session between the Committee and the City Assembly, Potrzuski stated that when he mentioned scheduling such a meeting, there was not sufficient support.

VII. UNFINISHED BUSINESS:

State packaging and potency limits.

Evans stated that she had considered the issue at length. She said that during that consideration, it came up that a curious child could get into a marijuana product, just like they get into cookies. She stated that if that in that event, the child would likely end up in the emergency room. She said that she felt that the discussion warranted further discussion. She said that she was concerned with the industry being hurt in the community if it didn't address this issue.

Stelzenmuller stated that state regulations put a serving of marijuana at 5 milligrams. He stated that his concern was that an adult likely wouldn't eat a whole 100 milligram product, thus they would leave such a thing laying around their house. He added that he felt honor-bound to bring this topic up for discussion.

D'Arienzo stated that he felt that a 50 milligram bar would have to be labeled as 10 servings. He added that he has in fact eaten multiple candy bars in a single sitting in his life. He felt that his concern was that government was seeking to regulate morality and that he felt that was not appropriate. Ash stated that she tried to get a cookie once and that she had only two bites. She said that it was one of the scariest nights of her life. She said that the type of person who leaves cherry flavored vodka around currently, or cigarettes around, would

likely still do that with a marijuana product.

D'Arienzo asked if the packaging of the cookie was attractive to a child. Ash stated that packaging does make a difference. She added that it was packaged such that it was attractive. She said that in Colorado it is required that any such product be in a cloth bag, so that it isn't visible to a bystander.

Chair Albertson stated that State regulations also require marijuana products be in a re-sealable child-proof bag. He stated that if the Committee can't trust adults with these intoxicants, then they shouldn't be allowed to have them. He asked what can be done to make this any safer, given the current state regulations.

M - Stelzenmuller / S - Evans, motion to include in the final report to the Assembly to recommend State regulations at 3AAC .306.560 under item 2, to strike the words 10 and 50, and insert the words 1 and 10, in a single package.

Public Comment:

Peter Esquiro stated that there was a lot that a lot of people don't know about marijuana ingestion. He continued that he wondered if there was a reason to come up with all these regulations right now. He recommended seeking out more information.

Judy Bixby stated that the Colorado report that she had cited at a previous meeting indicated information about child admittance to hospitals went up. She wasn't sure if there was a correlation, but needed time to research.

Marge Esquiro stated that she was in favor of smaller dosages. She said that the State Marijuana Control Board itself has recognized that they need more time to fully address the issues in their own regulations.

Committee Discussion:

Ash stated that she knew that many people use edibles in hospice, because they can't smoke it, and many of the oils are not strong enough. She said that they were discussing more than just getting high. That many people she knew much preferred marijuana for chronic pain over other pharmaceuticals.

Potrzuski asked if all edibles in Sitka would be produced in Sitka. He added that knowing what you are going to produce is going to be in single serving sizes would make things easier. But if products are going to be brought in, it would likely be more difficult to do. Chair Albertson stated that his understanding it was not within the purview of the Committee to concern how products got to Sitka.

Hames stated that he was not in favor of the motion, because he didn't see how limiting packaging amounts, would limit how much a kid could get into. He didn't see that it would stop someone from bringing home a bunch of single servings, which a kid could then get into. He added that he felt that mistakes will happen, and that limiting serving sizes wouldn't stop that from happening.

Vote: 3 Y, 5 N, Motion failed.

Stop: 8:12

Start: 8:23

Taxation

Chair Albertson stated that the idea of an excise tax as a place holder had come up previously in committee. He pointed out that Juneau has an excise tax on alcohol because they had one in place before the State outlawed it. He continued that Washington and Colorado had a small portion of communities with small excise taxes. Windsor stated that his concern was that a small tax would eventually become a sin tax, and that would likely get increased over time, by any given Assembly in the future. Ash stated that she was against additional tax. She stated that it was not right to further tax an industry that was in its infancy.

Hames stated that he was open to further discussion of taxation and that it was one of the issues that was expected of the Committee. He said that he felt that based on testimony from City Officials, it was not anticipated that much money was going to come in. He added that previous testimony had indicated that even local industry was in favor of an excise tax if the State failed to share any of its tax revenue resulting from marijuana sales. He felt that it made sense to have some kind of place-holder taxation.

M – Stelzenmuller, motion to include in the final report a recommendation to the Assembly to imposing a 1% excise tax on retail sales of marijuana in Sitka. Motion failed because it lacked a second.

Potrzuski stated that he felt he needed to know what marijuana costs in Sitka, and how taxation would impact that price. Windsor stated that marijuana is about \$100 to \$150 per quarter ounce. Chair Albertson stated that he was undecided on the topic of taxation. He stated that with taxation, it does decrease the margin between the black market and legitimate industry. He continued that with current state regulations, it wasn't a sure thing that any products would be legally available, thus additional taxation would be further pressure for consumers to revert to the black market.

Evans stated that with regard to the black market, she knows many people who do not want to have to use it to procure items for effective pain relief. She added that they are seeking pain relief and thus are in need of additional assurances that a quality product will be consistently available. She stated that adding a little tax would still add a small amount of revenue for a financially struggling city.

Potrzuski stated that at a street price of \$350 an ounce, that would be about \$5000 per pound. Chair Albertson stated that the Federal Government actually has a form which requires reporting of all revenue that is taxable, even if it was an illegal industry. He stated that it is taxed at a rate of 80% to 100%. Chair Albertson stated that what they were discussing was a point of sale excise tax on marijuana, above normal sales tax.

D'Arienzo stated that he was in favor of waiting a year, and then revisiting the taxation issue, based on the health of the industry. He stated that he was against taxing something simply because you can. Ash pointed out that she felt many people voted in favor of the initiative because they thought the tax revenue was going to cure the Cities financial woes. Evans stated that she was in favor of a 1% rate.

M – Stelzenmuuler / S - Potrzuski, motion to include in the final report a recommendation to the Assembly imposing a 2% point of sale excise tax on retail sales of marijuana in Sitka.

Public Discussion:

Marge Esquiro Cited Washington state taxation tax revenue, which was currently a 25% retail tax. She added that they had proposed moving to 37%.

Jerry Christener stated that a special excise tax would require additional employees, which would cost money. He said that he didn't feel that the marijuana industry would be a major source of revenue.

Committee Discussion:

Vote, 3 N, 5 Y, Motion passed.

VIII. NEW BUSINESS: None

IX. PERSONS TO BE HEARD:

Peter Esquiro stated that he would like to appeal to the Committee to recommend that the Assembly go beyond ads in a newspaper in seeking applicant for the LRA. He added that the Assembly should go out and specifically recruit people from the law enforcement and medical industries to serve on a future LRA. He said that other states that have legalized marijuana in the past few years have recommended that states new to legalization should take the process of slowly.

X. ADJOURNMENT:

A. Agenda items for next meeting.

Planning and Zoning Discussion
Taxation
LRA Status
Final Report and associated regulatory issues.
State Industry Requirments

B. Set next meeting date.

Monday, February 22.

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

Attest:
Reuben Yerkes, Paralegal