
Marijuana Advisory Committee Minutes

Monday, February 22, 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 7:06pm.

II. ROLL CALL

Present: Levi Albertson, Joseph D'Arienzo, Andrew Hames, Pamela Ash, Darrell Windsor, Steven Eisenbeisz, Bob Potrzuski, Jay Stelzenmuller, Lindsay Evans
Staff: Municipal Attorney Robin Koutchak, Senior Planner Michael Scarcelli, Paralegal Reuben Yerkes

III. AGENDA CHANGES: None

IV. APPROVAL OF MINUTES: M - Windsor / S – Potrzuski, motion to approve minutes as amended. Motion passed unanimously.

V. PERSONS TO BE HEARD/CORRESPONDENCE:

Judy Bixby passed two documents to the Committee one was a study on edibles, the other was a training that she worked on that pertained to addiction.

VI. REPORTS:

Potrzuski stated that he wanted to applaud the performance of the Chair, for his hard work and research. Chair Albertson stated that he wanted to thank the rest of the Committee for its hard work as well.

VII. UNFINISHED BUSINESS:

Planning and Zoning Discussion

Senior Planner Michael Scarcelli stated that at the February 16 Planning Commission meeting he presented the zoning text change proposal to make some zones permitted use for marijuana establishments. He stated that the planning commission chose to send it back to the Marijuana Advisory Committee, as a cautious approach to address certain concerns. Chair Albertson stated that he was not in favor of conditional use process (CUP). He stated that given the public input and input from the Planning Commission he was in support of recommending to the Planning Commission that it be CUP across all zones.

M – Hames / S – Stelzenmuller, motion to return the marijuana advisory committee's previous recommendations to the Planning and Zoning Committee, with the change to recommend Conditional Use Permits in all previous recommended zones.

Public Comment: None

Discussion:

Eisenbeisz stated that he did not support the offered motion because he felt that Planning Commission had not been willing to compromise, in spite of the compromise put forward by the Committee. He added that he preferred to forward to the Assembly in the final report the position of the Committee, as opposed to the position of the Planning Commission. Hames stated that these degrees of regulation can be changed in the future, as necessary.

Vote: 6 Y, 3 N, Motion passed.

Taxation Discussion:

Potrzuski stated that Finance Director Jay Sweeney had told him that it could be running afoul of existing law. He added that the existing recommendation was for a percentage, where as if it is an excise tax based on weight, that concern would be alleviated. City Attorney Koutchak stated that the Committee could keep its recommendation, and when it goes before the Assembly, it could then address any concerns with multiple sales tax levies on a single product. Stelzenmuller stated that his intention as the offeror of the motion was to get the concept before the Assembly, as opposed to being overly stuck on the nuances of the tax amounts.

Local Regulatory Authority Status

City Attorney Koutchak stated that the MAC is sun-setting, but as the LRA, the body will exist as necessary, until the Assembly designates a permanent LRA. Chair Albertson asked if the LRA would be able to approve the final report. City Attorney Koutchak stated that it could. Eisenbeisz asked if once they were the LRA, if the seated Assembly members would need to excuse themselves because of its adjudicatory capacity, and the Assemblies appellate authority. City Attorney Koutchak stated that she believed that to be the case.

Potrzuski stated that the LRA was created in case the State failed to fulfill its duties. He added that most of those concerns were alleviated, because the State had carried out its duties. He did not anticipate dozens of licenses being received in the municipality. Stelzenmuller stated that he disagreed with the statement that the State had done its job, as that job was to issue permits, which they hadn't done. He said in the event that they failed to do that, the LRA existed to render that service.

Chair Albertson stated that he had some concerns. He was very thankful and confident in the capabilities of the Planning Department. His stated that his concern was with the very industry specific challenges that would likely come up in the next year. He continued that would result in additional work load for staff. He added that based on the research he had done, the majority of municipalities he had contacted had chosen to use their respective planning departments to process licenses.

Potrzuski asked what the City Attorney felt the LRA would be needed to do. City Attorney Koutchak stated that the name provided some direction. She continued that the LRA is what the State is going to look to for input on a license renewal.

Stelzenmuller stated that a 7 member LRA is going to be more receptive to the public than a Planning Commission. With regard to the Assembly membership on the LRA, he stated that there attendance was a valuable resource, and that perhaps they could simply excuse themselves as necessary, when deciding cases that go before the LRA.

D'Arienzo stated that he agreed. He stated that the LRA could have advisory capacities to the Assembly, as the MAC does now. Evans stated that there would be many businesses that resulted from legalization. She added that there were not likely to be a great increase in work load. She felt that a LRA could also help screen activists from the deliberation process.

Chair Albertson stated that he anticipated a great deal of changes on topics such as testing and zoning, and that as a result, there would be many opportunities for public participation. Chair Albertson stated that he would like to see a designated LRA as an advisory agency to the Assembly.

Potrzuski stated that he took issue with the statement that the Committee represented the people. He said that he felt that the Committee had been an advocacy group for the Marijuana industry. He said that he knew that there were many in the community that were not so supportive of the marijuana industry. He added that a future LRA should ideally be more representative of the community. Ash stated that the vast majority of the community did vote in favor of legalization, and that the Committee membership reflected that position accurately. D'Arienzo added that at the inception of the Committee, the School Board, Police and Fire Commission and the Health Needs committee had all declined to participate. D'Arienzo clarified that the Police and Fire Commission did initially have a participant on the Committee, but that individual later resigned. The Health Needs commission did have a delegate to the Marijuana Advisory Committee, but that individual had to resign later as a result of scheduling conflicts.

Chair Albertson stated that his understanding was that the Committee was discussing what it would recommend to the Assembly as to composition of an LRA.

M - Stelzenmuller, motion to recommend to the Assembly that the Marijuana Advisory Committee continue as the LRA. No second, motion failed.

Chair Albertson stated that he was concerned that if the Committee moved straight into serving as the LRA, it would preclude some other members of the public from getting the opportunity to serve on the Committee. Stelzenmuller stated that he would like to see the Assembly try to fill more seats on an LRA with members from Police and Fire Commission, and Schools and Healthcare fields.

M - D'Arienzo / S - Hames, motion to recommend that the assembly designate a permanent LRA made up of no less than five, at-large members.

City Attorney Koutchak recommended that LRA membership be from five to seven members. Stelzenmuller stated that he was in favor of a larger group, possibly a nine member panel. Windsor stated that he agreed.

Public Comment:

Marge Esquiro stated that she felt that while some people voted in favor of legalization, some people would like to provide a different voice. She said that the school board had not included someone because they didn't feel that one person could speak for the School Board.

Discussion:

Stelzenmuller stated that he would welcome anyone with an opposing point of view with regard to membership of the LRA.

M - Stelzenmuller / S – Potrzuski motion to amend the motion on the table to change “five” to “seven”.

Public Comment:

Judy Bixby stated that she supported the amendment to the motion.

Discussion:

Hames felt that if the seats can be filled, he agreed with the amendment to the motion.

Amendment to the motion passed unanimously.

Windsor suggested having an additional motion to have a seat or two from the Assembly. Potrzuski stated that he felt the Assembly would provide a liaison.

M - D’Arienzo / S – Hames, motion to recommend that the assembly designate a permanent LRA made up of no less than seven, at-large members.

Vote: 8 Y, 1 N, motion passed.

Stop: 8:16

Start: 8:26

Final Report and Associated Regulatory Issues

City Attorney Koutchak stated that conciseness was a good goal, for the sake of the Assembly. Chair Albertson stated that he would like to see something that encompassed what the committee had passed to the Planning and Zoning Commission. City Attorney Koutchak stated that there should be something about the planning and zoning decisions.

Chair Albertson stated that the enforcement discussion was going to be left up to State authority. Regarding non-psychoactive and medicinal use marijuana, he said that it is not a local issue, and that State regulations would provide direction. City Attorney Koutchak stated that she felt that the second paragraph afforded historical context to the report.

Eisenbeisz stated that his concern was that the final report is meant for someone who does not know what is going on. He stated that he had not had the time to determine if it is ready to be released. Stelzenmuller said that he felt that he needed time to digest the final report. Windsor asked if the MAC could approve of the final report, as the LRA. Hames asked if the Committee was considering one more meeting. City Attorney Koutchak stated that an additional meeting would be allowed.

State industry requirements: No discussion.

VIII. NEW BUSINESS: None

IX. PERSONS TO BE HEARD:

Michelle Turner stated with regard to taxation that she had recently made point of sale purchases in Washington and that the receipt broke the transaction down into state tax, local tax and state excise tax. She stated that it helped show where money was going. She said that in Amsterdam purchasing marijuana was a very pleasant experience, given that it seemed to enhance their central business and retail areas as opposed to detracting from them.

Marge Esquiro stated that she was aware that the date that the State would begin to accept applications was February 24, and that she was confused about what would happen to that date if the City chose to do something more stringent with regard to marijuana regulation.

X. ADJOURNMENT:

A. Agenda items for next meeting.

Discussion and review final report.

B. Set next meeting date.

Monday February 29, 7:00PM

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

Attest:
Reuben Yerkes, Paralegal