Marijuana Advisory Committee Minutes

Monday, December 7, 2015 7:00pm
Sealing Cove Business Center

Committee Members:

Levi Albertson, Andrew Hames, Joseph D'Arienzo,
Dr. Myron Fribush, Pamela Ash, Darrell Windsor,
Steven Eisenbeisz, Bob Potrzuski, Jay Stelzenmuller

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
Absent: Dr. Myron Fribush (excused)
Staff: Municipal Attorney Robin Koutchak (left at 8PM), Paralegal Reuben Yerkes

III. AGENDA CHANGES: None

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

V. PERSONS TO BE HEARD/CORRESPONDENCE:

VI. REPORTS:

Darrell Windsor passed out a memorandum from the City Planning Commission. The City planning department requested that the Marijuana Advisory Committee start out with Conditional Use Permits as opposed to regular permitting. They also recommended that the Committee get more specific as to what exact permits are desired in which specific districts. He stated that given that marijuana legalization is a new condition, and as a result the conditional use permit process affords greater scrutiny at first.

VII. UNFINISHED BUSINESS:

A. Commercial/retail on-site consumption

Potrzuski stated that he preferred that outside on-site consumption not be visible from public areas.

Hames stated that part of changing the stigma surrounding marijuana is that people be able to see it, as opposed to hiding it and pretending that it isn't happening. He also felt that the odors were more likely to dissipate if smoked outside, as opposed to inside where it will concentrate.

Chair Albertson stated that as regulations are currently written, there is unlikely to be any marijuana consumption in downtown Sitka. He continued that Sitka is a patchwork of highly incongruent zoning types in close proximity. That being the case, many people will be exposed to odors that they never anticipated when they

purchased their property.

City Attorney Koutchak stated that these circumstances would not be unlike the situation that currently exists at the Baranof Brewery, given the sights and sounds that emanate from that establishment. She continued that if the given permit was a result of the conditional use permit process, there would be restrictions on hours of usage and other criterion. Windsor asked if the City could appeal the 500 ft. set-back to the Department of Law. City Attorney Koutchak suggested that the Committee could make a recommendation to the Assembly to pass a resolution asking the State to revise and reconsider the 500-ft set-back provision.

Chair Albertson stated that if we decide to disallow outdoor on-site consumption, we may be preventing any business from establishing any on-site consumption. Eisenbeisz pointed out that such a concern is not within the purview of the Committee.

Stelzenmuller asked if the Committee would be willing to allow for outdoor on-site consumption as long as it is outside of public view. Albertson stated that he would prefer language such as "visible from the street" or "sidewalk". Potrzuski stated that this opens up a lot of problems because people will ask if a gravel path is included in "sidewalk".

Hames asked if the Committee could define "outside". Chair Albertson stated that it could include the language, "permanent covered structure". Eisenbeisz asked that the support staff look into the State's definition of "outside".

Hames agreed with Stelzenmuller that the Committee should create a list regarding what it needs to accomplish. Windsor stated that one problem is that the Committee is going to be sun-setting about the same time that the State legal review of proposed regulations finishes.

City Attorney Koutchak added that the Committee should consider if they want to limit the number of people allowed, do they want to mandate security, do they want to limit the amount of product that is allowed on scene. Windsor added that there may need to be a limit on inebriation, as there is for alcohol. Chair Albertson stated that the challenge there is that there currently isn't a method by which to measure inebriation consistently. City Attorney Koutchak pointed out that cases have been won without the benefit of a breathalyzer measurement, because we all know when someone has had "too much".

Eisenbeisz stated that a business owner could tell a patron to leave, but they cannot stop them from smoking the product that they have purchased, assuming that it is the legally allowed amount.

B. Discuss possibility of having a town hall meeting

Eisenbeisz stated that he was opposed to a town hall meeting. He said that the Marijuana Advisory Committee meetings are among the most frequent and well-advertised meetings that happen. He added that he didn't feel that a town hall meeting would provide anything further that the regular meetings are not already providing. D'Arienzo agreed, stating that the existing Marijuana Advisory Committee meetings would be the ideal time for members of the public to participate.

Ash stated that at one of the marijuana town hall meetings many of the attendees simply wanted to complain, as opposed to hearing and responding to some of the outstanding commentary provided by the presenters. Chair Albertson also agreed as did Windsor.

City Attorney Koutchak stated that it might be good for the City Assembly to know that the Committee had held a town hall meeting. Chair Albertson stated that it likely made sense given that logic to hold off until the last couple weeks before the Committee sunsets, before holding a town hall meeting. Stelzenmuller agreed that it made sense to hold off until the Committee had positions on some topics. Potrzuski pointed out that it made more sense to hear from the people before the Committee had formulated positions. He added that it was always better to give the people the opportunity to speak before a position is finalized.

M – Stelzenmuller / S – Potrzuski, motion to hold a town-hall meeting in the second week of January

Public Discussion: None

Eisenbeisz stated that he disagreed with the manner in which the motion was worded, as he supported public participation and input on these important topics

3 yea, 5 Nay, motion failed.

Break: 8:09
Start: 8:21

VIII. NEW BUSINESS:

A. Discussion of 500 ft. set-back and possible local options

Hames stated that he had researched the alcohol regulations, they were based on the language "shortest pedestrian path", which gave him some hope for the Marijuana businesses. Eisenbeisz pointed out that beer and wine licenses differ from a full liquor license.

D'Arienzo stated that he was in favor of the Committee recommending that the Assembly get a resolution to the State opposing the 500-ft. set-back as drafted. Eisenbeisz added that he wanted to talk to the City Attorney about litigation regarding the Cities ability to sue the State for certain provisions that impede its ability to conduct business.

Chair Albertson pointed out that one of the major reasons for the current Department of Law review is to protect the State from potential future litigation. That being the case, it might be highly effective to submit a resolution to the State requesting alternatives to the 500 ft. set back in order to avoid potential litigation in the future. He added that language in any such resolution should make mention of the fact that the 500 ft. set-back does not follow the whole "regulate like alcohol" provision of the citizens' initiative.

B. Distinguish between Marijuana Advisory Committee and Local Regulatory Authority roles.

Windsor stated that he had discussed this with the City Planning Director Maegan Bosak and she felt that the Committee was acting as the Advisory Committee until it sunsets at which point it becomes the local regulatory authority.

Eisenbeisz stated that he doesn't necessarily agree that this is correct. Stelzenmuller added that per the ordinance 2015-57, the Marijuana Advisory Committee is also the Local Regulatory Authority effective immediately. D'Arienzo pointed out that the Committee would act as the Local Regulatory Authority in the event that license applications are received, and in the event that the State fails to finalize regulations.

M- Eisenbeisz / S – Potrzuski motion to table

Public Comment: None

Discussion:

Eisenbeisz felt that the Local Regulatory Authority would have the authority to issue a statement to the State, whereas the Advisory Committee would not. He felt that he needed to hear from the City Attorney to confirm. Potrzuski questioned the assumption that the Local Regulatory Authority had the authority to address the State directly. He felt that the Assembly did, and that they would have to vet and approve any such communication.

D'Arienzo pointed out that the citizen's initiative stated that if the State fails to pass law that allows for submitting of commercial marijuana applications, then the Local Regulatory Authority would take over that responsibility. Stelzenmuller felt that the Committee had the authority to write its position and communicate that to the Assembly.

IX. PERSONS TO BE HEARD:

Shannon Haugland from the Sitka Sentinel asked if the staff was going to work on the 500-ft set-back again.

X. ADJOURNMENT

A. Agenda items for next meeting.

On-site consumption
Invite someone from the Planning Department to discuss zoning specifics.
Draft options for a resolution to go before the Assembly and the State.

B. Set next meeting date.

Monday December 14, at 7PM

M – Windsor /S – D'Arienzo, moved to adjourn at approximately 9:02pm. Motion carried unanimously.

Attest:
Reuben Yerkes, Paralegal