Marijuana Advisory Committee Minutes

Monday, December 14, 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 7:02pm.

II. ROLL CALL
Present: Levi Albertson, Joseph D'Arienzo, Pamela Ash, Darrell Windsor, Steven Eisenbeisz, Bob Potrzuski.
Absent: Dr. Myron Fribush (excused), Andrew Hames (excused)
Staff: Municipal Attorney Robin Koutchak, Paralegal Reuben Yerkes, Senior Planner Michael Scarcelli

II. AGENDA CHANGES: Stelzenmuller suggested putting together an online survey to solicit input from the public, given that most are afraid to come forward with their feelings on legalized marijuana.

IV. APPROVAL OF MINUTES: M - Windsor / S - Ash, motion passed unanimously

V. PERSONS TO BE HEARD/CORRESPONDENCE: None

VI. REPORTS: None

VII. UNFINISHED BUSINESS:
Permitting Options and Zoning
Senior Planner Scarcelli stated that one of the points of his staff report was that the conditional use permit process would afford the municipality a trial period, and a sunset clause would allow for a relatively short period to reorganize or make changes when a given arrangement doesn't seem to be working. He added that density controls would be good to consider as well, as it only allows for "so many" establishments in a given area. Senior Planner Scarcelli also pointed out that it's not unheard of for there to be 1000 ft. buffers in some municipalities. One trend is that in some instances retail is treated differently than cultivation, for purposes of buffers. He recommended that the municipality parallel the State regulations, which would streamline the zoning process.

Chair Albertson pointed out that the examples that Senior Planner Scarcelli had used in the hand out contained states where marijuana had not actually been legalized. He stated that most of the states in the example had only made marijuana legal for medicinal use. Chair Albertson pointed out that a problem with the conditional use permit process is that State marijuana licenses are not tied to the location, whereas the municipal conditional use permit is.

Windsor pointed out that in his time with the Planning Commission he has never denied a conditional use permit. There is always something that can be tweaked, to be fine-tuned, and then revisited in a year or two, at the end of the sunset date. Potrzuski agreed that the conditional use permit process seemed like an ideal manner in which to administer the zoning question.

Senior Planner Scarcelli stated that one of the points of concern was the apparent lack of input thus far on the topic of marijuana. He continued that at some point the municipality needs to move forward. He added that another course of action was that the municipality could create a new zone, specific for marijuana licensed facilities.

Eisenbeisz stated that he is thoroughly against the sunset clause provision of a conditional use permit. He continued that it is profoundly antibusiness, given the potential for someone who has made huge investment to get started to then find out that their methods and practices are now required to be completely revamped or cease entirely. He also asked why manufacturing and cultivation not be suggested uses for waterfront zoning when currently there are fish processors and other heavy industry, and why has cultivation not been recommended for the central business district.

Senior Planner Scarcelli stated that Sitka there are both residential zones and commercial. This is unusual. This renders some zones in Sitka a mixed zone. Thus it's not a typical harmonious residential zone. Scarcelli stated that currently cultivation is allowed in the central business district. Eisenbeisz stated that he disagreed that there is a big difference between cultivation of one plant from the cultivation of another. D'Arienzo agreed with Eisenbeisz, specifically that there is little proof of any difference between cultivation of marijuana and other plants, short of the scale of the given operation. He continued that most of the perceived differences between the cultivation of marijuana versus other types of plants is based on the fear associated with marijuana given that it has most recently been an illegal crop. He continued that the sooner the negative stigma associated with marijuana is dispelled, the sooner the actual zoning issues at hand can be dealt with.

Senior Planner Scarcelli stated that in some instances where marijuana establishments have been created, crime has actually gone down. He added that no one is sure as to why, some postulate that it could be a result of the increase security systems surrounding the establishments.

Windsor asked if someone doesn't follow the conditions of a conditional use permit, could it be pulled. Senior Planner Scarcelli said that it would be a violation of their conditions, and it would be looked into. Chair Albertson asked if the members of the Planning Commission had been made aware of the proposed State regulations. He pointed out that there is a great deal of uncertainty already inherent in anyone seeking a marijuana license, that they don't need more coming from the municipality in the form of a sunset clause attached to their conditional use permit. He questioned if there wouldn't be further restrictions put on an applicants permit based strictly on fear-based public comment. Senior Planner Scarcelli stated that in his conditional use permit drafting procedures he always uses the word "shall". He pointed out the concept of "permitted with limited conditions", is a situation in which most applicants are permitted, with minimal conditions. He continued that conditional use permit applications be evaluated based solely on a set list of questions and standards, so as to create a greater degree of fairness.

Windsor asked is the Planning Department would be amicable to the Local Regulatory Authority assist in making findings. Scarcelli stated that he was in favor of that.

Eisenbeisz asked if the Planning department had looked at what some of the findings would be for a marijuana permit application. Senior Planner Scarcelli pointed out that the criterion that must be met include no negative impact on public health or safety, is it in-line with the intent of the zoned district, is it in-line with the City comprehensive plan, in addition to the basic parking requirements based on the type of permit.

Eisenbeisz added that he would like to see cultivation brought into water front and central business district, especially central business district. Chair Albertson asked if it would make sense for all conditional use permit applications to first come in front of the Local Regulatory Authority, and then go before the Planning Commission. Eisenbeisz pointed out that may be beyond what the Assembly envisioned for the Local Regulatory Authority.

Stelzenmuller stated that he wanted to make sure that this industry could become economical and profitable, locally for the municipality going forward.

Stop: 8:15
Start: 8:29

Senior Planner Scarcelli used as an example 215 Smith Street, where the brewery is located. He added that it is currently zoned industrial. Eisenbeisz stated that the buffer zone is calculated based on the shortest walking distance, as opposed to a straight line. Senior Planner Scarcelli continued that once applications for conditional use permits are received, he would begin his staff report. He added that he would consider parking, then health and safety, to include health and safety inspections, chemicals or effluent discharge, and potential fire hazards? He stated that staff then takes his report to the Planning Commission and they make a decision. He added that the planning department uses a 300 ft. zone around the location in question to solicit public comment from anyone potentially impacted.

Eisenbeisz asked if the Planning Department feels that it has enough information to begin to create some findings, specifically tailored to the type of permit. Chair Albertson stated that he would like to see assessment in the central business district as well. Windsor stated that the Gary Paxton Industrial Park would also be a good location to assess permitting.

Discuss Commercial/retail on-site consumption.

Stelzenmuller asked for clarification between the Local Regulatory Authority versus the Marijuana Advisory Committee. City Attorney Koutchak stated that the Marijuana Advisory Committee has all the duties of making recommendations to the Assembly. She added that the only thing that the Local Regulatory Authority differs on is in the processing of applications. There are not any other responsibilities other than process applications, or make recommendations to the Assembly. Windsor pointed out that as the Local Regulatory Authority they couldn't draft a letter to the State. City Attorney Koutchak clarified that the Local Regulatory Authority is only necessary if the State doesn't get the regulations through in time, or if and when applications are received.

M – Chair Albertson/S- D'Arienzo, to table item B Commercial/retail on-site consumption until meeting next week. Motion passed unanimously.

Review draft resolution regarding State set-back requirements.
Public Comment

Marge Esquiro asked if this committee sunsets on February 24th, then what would happen. Chair Albertson pointed out that hopefully the LRA would take over and the Committee would submit a report to the Assembly. Esquiro asked why the Committee would want to change the buffer from 500 ft. to 200 ft. Potrzuski stated that with the 500 ft. buffer no marijuana establishment would be able to be permitted in the central business district. Ash pointed out that in Colorado where she lived, the population was about 10,000 people and there was one dispensary. Esquiro added that she is hearing a lot of conversation in the town, amongst colleagues and kids as well. Pete Esquiro reiterated Stelzenmuller's suggestion to make an online questionnaire.

M - Chair Albertson/S – D'Arienzo, motion to add a half hour extension to the meeting.

Vote: 5 nea, 2 yea, motion failed.

VIII. NEW BUSINESS:

IX. PERSONS TO BE HEARD:

Marge Esquiro stated that she was opposed to anything less than the 500 ft. buffer zone.

X. ADJOURNMENT:

A. Agenda items for next meeting.

Surveymonkey discussion, formulating questions.
Testing facilities and protocols. Best-means available language.

B. Set next meeting date.

Monday December 21 at 7PM.

M – Windsor/S – Ash, moved to adjourn at approximately 9:07pm. Motion carried unanimously.

Attest:
Reuben Yerkes, Paralegal