

Session 15-07, a Regular Meeting of the Cannabis Advisory Commission was called to order by Chair Aryn Young at 5:32 p.m. on November 30, 2015 in the Conference Room located Upstairs at City Hall 491 E. Pioneer Avenue, Homer, Alaska.

PRESENT: COMMISSIONERS HARRIS, STEAD, SARNO, REYNOLDS, LEWIS

ABSENT: COMMISSIONER ROBL AND JONES, (EXCUSED); MONROE (NON-EXCUSED)

STAFF: CITY PLANNER ABBOUD
DEPUTY CITY CLERK KRAUSE

APPROVAL OF AGENDA

Chair Young called for a motion to approve the agenda as presented.

LEWIS/REYNOLDS - MOVED TO APPROVE AS PRESENTED.

There was no discussion.

The agenda was approved as presented by Consensus of the Commission.

PUBLIC COMMENT

The public may speak to the Commission regarding matters on the agenda that are not scheduled for public hearing. (3 minute time limit).

Wes Schact, Fritz Creek resident, commented on the regulations/actions of other states and countries and advocated for supporting Eco-Tourism aspects of the industry. He noted that this industry was more regulated than the alcohol industry. This industry is renewal and would diversify the economy.

VISITORS

RECONSIDERATION

ADOPTION OF CONSENT AGENDA

(Items listed below will be enacted by one motion. If separate discussion is desired on an item, that item may be removed from the Consent Agenda and placed on the Regular Meeting Agenda at the request of a Commissioner.)

A. Meeting Minutes for the October 22, 2015 Regular Meeting

Chair Young requested a motion to approve the Consent Agenda.

LEWIS/HARRIS - MOVED TO ADOPT THE CONSENT AGENDA.

There was no discussion.

The Consent Agenda was approved as presented by Consensus of the Commission.

REPORTS

A. Report to the Commission - City Planner Abboud

City Planner Abboud provided a brief summary of his recent State Planners Conference in Anchorage and the regulations that other communities have implemented. He noted that Juneau has implemented all zoning through Conditional Use Permits. There was concern on the responsibility passed down to local authorities.

The enforcement is only civil fines, there are no classes of crimes. With regard to the buffer zones there are conflicts within the statutes and with the Federal laws.

Senator Ellis has come up with a Hemp Bill and he was curious to see that document.

In the packet there is information from the City Attorney regarding a presentation provided at the conference. City Planner Abboud provided a synopsis on the presentation. He did note that edibles are not to look like familiar candies, etc.

City Planner Abboud noted that there was a snafu on the second hearing at the Planning Commission level so if the Commission does not make any additional changes at the meeting this week then it can go before Council. Otherwise, the second hearing will be at the January 6, 2016 Planning Commission meeting.

He further commented on the changes to use at the retail outlets by the MCB. He stated that this may make it less palatable by neighboring residents. His concern is the reaction of the users and upon imbibing of the product may require some place to "chill."

Commissioner Lewis questioned parking requirements and City Planner Abboud responded that it was based on square footage. Commissioner Harris offered having no parking or limited parking.

Discussion evolved on the outcome of controlling consumption within the retail setting and a preference to have a place that people can enjoy the product and also have food and drink. This type of setup would be the same level of enforcement as a bar. You drink and drive it is the responsibility of the driver to limit their intake. The concern was the new user. Commissioner Harris recited actual accounts of impaired drivers but did not think that parking should be allowed on premise, that any amount of walking would be beneficial and preferred. Further comments on the zoning requirements for retail establishments and consumption was entertained and comparison to established bars and package stores.

City Planner Abboud brought up the issue of waiting for a decision by the Borough as it would be preferred to carry on the same as currently being conducted with property taxes and sales taxes, etc. If the Borough does not take up the issue then the city will have to establish city code regarding the taxes and collection thereof, which theoretically should not be too onerous. The regulations will be submitted and it is assumed that the state will take the full time allotted for approval and issuance of licenses. It was noted by the commission that it would lose the whole season next year.

The commission briefly discussed the reasons limiting operations to small cultivation in the Bridge Creek Watershed Protection District was to meet the impervious coverage limitations for the district.

Commissioner Harris provided comment on the Federal officials went to places in Colorado and pulled permits based on proximity to schools, that the distance is based on "as the crow flies". A brief discussion ensued regarding buffer zones for the state and city and how that affects Homer zoning. Commissioner Harris referred to page 73 in the packet regarding the measuring of distances. There was question on whether it was facility or property line. Further comments on what determines religious institutions, and services regularly held. City Planner Abboud asked who interprets the regulations and he did not receive a very clear answer.

City Planner Abboud spoke about licensing and the recommendation from City Attorney Wells was to limit the number since she was greatly concerned with the litigious end of establishing regulations regarding licenses. He noted that a commissioner requested this to be on the next Planning agenda so they will discuss this topic. He stated that the Planning Commission expressed concern with the number of businesses in the city and wanted to limit the number of licenses issued and the hours of operation.

Commissioner Lewis responded that he believed that businesses will make it or they will not. City Planner Abboud agreed that it would more than likely be self-correcting.

Commissioner Stead added that the Planning Commission was trying to figure how to limit the number of licenses issued in order to limit the number of different types of businesses similar to how the number of establishments dealing with alcohol are limited. This was done by law for the State of

Alaska, not administratively. The Planning Commission would like to know if there is any desire or interest in limiting licenses.

Deputy City Clerk called for a point of order at this time noting that this item was later on the agenda.

B. Kenai Peninsula Borough Cannabis Task Force Report - Commissioner Monroe

Commissioner Monroe was not present to provide a report.

C. Report from City Attorney Wells - Memorandum Regarding Comments to Marijuana Control Board

City Planner Abboud provided a summary of the City Attorney's report included in the packet.

PUBLIC HEARINGS

(Public Testimony is limited to 3 minutes. The Commission conducts Public Hearings by hearing a staff report if any, hearing public testimony and then acting on the Public Hearing items- Once the public hearing is closed the Commission cannot hear additional comments on the topic.

There were no items scheduled for public hearing.

PENDING BUSINESS

A. Cannabis Sales Taxes and Excise Taxes

Chair Young read the title into the record. She requested any additional input from the City Planner.

Commissioner Harris felt that they should recommend implanting an excise tax in case the borough doesn't and believed that Kenai and Soldotna will be higher so she proposed 3%. There is no knowledge on what or if the Borough would be implementing anything. Discussion included the following points:

- taxing it too high to push it back to the black market
- waiting on the Borough actions
- adding excise taxes to the sales
- knowing options available to the city
- how it would be applied and who would collect it

City Planner Abboud will try to have more relevant information for the December meeting regarding taxation.

B. Cannabis Zoning & Licensing

1. Staff Report PL 15-80, Zoning for Cannabis, 2nd Public Hearing
2. Draft Ordinance 15-XX
3. Staff Report PL 15-84, Marijuana Licensing

Chair Young read the title into the record and opened discussion. Commissioner Harris inquired if the Planning Commission makes the regulations or just recommendations. City Planner Abboud responded that the Planning Commission submits recommendations for Council to adopt.

Commissioner Harris then referenced page 90 in the packet, Planning Commission's October 21, 2015 regular meeting minute. The Commission considered options presented for limited cultivation in the Rural Residential District. A motion was carried regarding the requiring of Conditional Use Permits (CUP) for Limited Cultivation in the Rural Residential District. Commissioner Harris would like to submit a recommendation countering or amending this proposed recommendation. City Planner Abboud interjected that the Planning Commission allowed outright limited cultivation in lots over 40,000 sf. and that it could be allowed by CUP for lots 20,000-39,999 sf in rural residential districts.

HARRIS/REYNOLDS - MOVED TO RECOMMEND THAT OUTRIGHT PERMITTING OF LIMITED CULTIVATIONS IN RURAL RESIDENTIAL ON LOTS 20,000 SF OR LARGER; REQUIRE TREE/SHRUBBERY PLANTING IN ADDITION

TO THE STATE REQUIRED 6" FOOT FENCING; A 20' SETBACK AROUND ALL PERIMETERS AND NO EMPLOYEES AFTER 7:00 P.M

Discussion ensued regarding the recommendations of the Planning Commission to require CUP's on lots 20,000-39,999 sf. The commissioners discussed the pros and cons on allowing limited cultivation in the rural residential districts outright and the benefits to requiring a conditional use permit.

VOTE. NO. STEAD, LEWIS, REYNOLDS, YOUNG, SARNO
VOTE. YES. HARRIS.

Motion failed.

HARRIS/SARNO - MOVED TO RECOMMEND CUP'S ON LOTS UNDER 20,000 SF AS LONG AS IT FOLLOWS THE STATE REGULATIONS, INCLUDES 20 FT SETBACK AND INCLUDES THE TREE/SHUBBERY PLANTINGS ALONG THE 6' FENCELINE.

There was a brief discussion on allowing limited cultivation in the residential districts as long as the property owner can follow all the rules, plus setting time limits for employees curtails traffic along those streets.

VOTE. YES. HARRIS, SARNO.

VOTE. NO. YOUNG, REYNOLDS, LEWIS, STEAD.

Motion failed.

Chair Young asked for additional discussion on zoning. There was none.

Commissioner Stead questioned page 52-53 in the packet, the draft ordinance lines 520-524, the distance for the buffer zones should reflect just feet, not square feet. He then questioned if a marijuana cultivation facility could not be described as a commercial greenhouse, referencing page 37, line 69-70 and page 36, line 50-51. City Planner Abboud responded that according to the proposed State regulations, no. There was a brief discussion on differentiating between commercial greenhouse operations and commercial marijuana grow operations and if they needed to provide clarifications.

HARRIS/ LEWIS - MOVED TO RECOMMEND NOT LIMITING THE NUMBER OF ANY LICENSES ISSUED.

Discussion centered on the request at the Planning Commission level on restricting the number of establishments for retail sales. City Planner Abboud noted that he stated they could limit the number in districts or not at all. Points were made that the City follows the State regulations regarding alcohol, jumping in ahead of time may not be in the best interests of the city, perception of not that many businesses to begin with, the thinking of the Planning Commission was it was easier to loosen up restrictions than tighten. The Planning Commission was thinking of limiting to 3 licenses and being very restrictive. Further comment was made that if an arbitrary limit was set on licenses that would limit seasonal businesses and severely limit the potential for revenue for the City and State. It was pointed out that it would not be good to see multiple businesses fail either. Commissioner Young inquired if they decide to limit the number of licenses how would they determine who gets those licenses? City Planner Abboud responded that is where the possibly of lawsuits comes up. Discussion evolved into the sticky mess that would be created by limiting the number of licenses and using the system that is currently employed with alcohol on a first come first serve based service. Commissioner Harris presented argument on the available areas within the city limits for retail businesses due to the buffer requirements and that limiting licenses would only result in the city reaping the repercussion. It was also pointed out that the city can enforce stricter regulations, that the state regulations and cost of starting a cannabis business was intensive and Council would not support restricting the number of licenses.

VOTE. YES. NON-OBJECTION. UNANIMOUS CONSENT.

Motion carried.

HARRIS/REYNOLDS - MOVED TO RECOMMEND THAT THE ADVISORY PLANNING COMMISSION CONSIDER AREAS WHERE CANNABIS CLUBS OR SIMILAR ENTERPRISES COULD BE ESTABLISHED.

Discussion on laws surrounding the act of consumption in facilities and the cost of litigating those actions since the “club” is not selling the cannabis. Discussion included: not addressing the issue since clubs are not included in the regulations; zoning regulations if the private club falls within those boundaries such as schools, etc. Private clubs will be very selective in location; a person could go to one business to purchase and then walk through another door, pay their fee and consume the product; Regulating something that the State was not addressing; possible liability issues with retail and consumption; zoning for something that technically does not exist and therefore cannot be regulated; possible loopholes getting a license and allowing the consumption; the state has introduced regulations to allow consumption and the city should take a wait and see approach.

VOTE. NO. STEAD, LEWIS, REYNOLDS, YOUNG, SARNO, HARRIS.

motion failed

NEW BUSINESS

A. Memorandum from the City Clerk Re: 2016 Meeting Schedule

Chair Young read the title into the record. She then asked if there were any changes.

LEWIS/SARNO - MOVED TO APPROVE THE 2016 REGULAR MEETING SCHEDULE AS PRESENTED.

There was a brief discussion.

VOTE. YES. NON-OBJECTION. UNANIMOUS CONSENT.

Motion carried.

B. Appointment of A New Council Member to the Commission

The commissioners welcome Councilmember Reynolds to the commission.

C. Next Meeting Deliverables, Agenda Items

City Planner Abboud reiterated that he will try to have more information at the next commission meeting on taxation from the City Attorney however, he did note that there was a short turn around period from this meeting.

Commissioner Sarno requested Social Clubs for discussion be on the next meeting agenda.

INFORMATIONAL MATERIALS

A. 2016 Meeting Schedule and Packet Processing Deadlines

B. 2016 Commission Attendance at Council Meetings

Commissioners Lewis and Reynolds volunteered to step up and report when other commissioners were unable to attend.

Commissioner Sarno volunteered for February

Commissioner Stead volunteered for March 14th

Commissioner Lewis stated that the minutes of the Commission can be submitted also.

C. Question and Answers on Articles 1-9, Updated November 10, 2015

D. Excerpt from the Advisory Planning Commission Minutes for October 21, 2015

Commissioner Sarno inquired why there was restrictions in the Town Center since they do not know what town center will be used for in the future.

E. Excerpt from the Advisory Planning Commission Minutes for November 4, 2015

F. Raven's Call Looks at Marijuana Laws, Mat-Su Gazette, October-November 2015 Issue

G. Alaska Dispatch News Articles Re: Clubs and Public Smoking

COMMENTS OF THE AUDIENCE

Members of the audience may address the Commission on any subject. (3 minute time limit)

Wes Schact, Fritz Creek, thanked them for having this meeting, they are getting somewhere and hopefully they will have more public participation in the future. He commented that over the years he has noticed more people wanting to remove cannabis from a Schedule 1 drug which is the main thing holding it back nationwide, state wide and city wide; next he then commented on the having permits, then finding someone qualified who has been practicing compared to some idiot in a trailer that has been involved in the business for a year or so.

Anders Gustafson, resident, recommended exercising caution to determine how the city is going to participate in this industry which Homer has a very small market share considering the enormity of the state. He requested giving the industry the best possible start and understands regulation is necessary and expects that it will be a long and tedious process.

Commissioner Sarno read a statement from Lori Franco who was unable to attend due to work, a clinical scientist for over 25 years and plans to open a licensed cannabis testing facility in Homer, commented that the zoning that has been proposed is workable. She wants to open this testing facility because she has seen many patients who would have benefitted from using this drug but were afraid to because of the stigma attached to it.

COMMENTS OF STAFF

Deputy City Clerk Krause commented that it was a very good meeting, very lively. Do not forget to vote tomorrow.

City Planner Abboud stated he will keep working at it.

COMMENTS OF THE CHAIR

Chair Young echoed the sentiments that it was a very lively meeting.

COMMENTS OF THE COMMISSION

Commissioner Reynolds commented that she appreciated Mr. Burgess for the foresight in creating this commission, she thanked the City Planner for providing all the information contained in the packet and appreciated the article Raven's Call, it was very interesting. She asked about speaking to the Economic Development Commission regarding the industry.

Commissioner Lewis had no comments.

Commissioner Stead appreciated the comments and was sorry this commission did not agree with the Planning Commission but that is not a problem and it was still good. He did not think that they had to agree on every issue before the two groups and that was okay.

Commissioner Harris commented that it was a great meeting and believed that in the future they would have to visit the private public for profit club and that the commission needs to remain as open as possible and try to get as many businesses to open in Homer as possible since they will just open right down the road and the city will lose any revenue that that would bring to the city.

Commissioner Sarno welcomed Commissioner Reynolds and then stated that the Cannabis Coalition will be attending the next Planning Commission so the debate will continue and its all in good heart and faith. She thanked the City Planner for all his research and work he is doing to provide the information for the commission.

ADJOURN

There being no further business to come before the Commission, the meeting adjourned at 7:36 p.m. The next regular meeting is scheduled for THURSDAY, DECEMBER 17, 2015 at 5:30 p.m. in the City Hall Cowles Council Chambers located at 491 E Pioneer Avenue, Homer, Alaska.

Renee Krause, CMC, Deputy City Clerk

Approved: _____