

Session 15-02, a Regular Meeting of the Cannabis Advisory Commission was called to order by Chair Aryn Young at 5:00 p.m. on June 25, 2015 at the City Hall Cowles Council Chambers located at 491 E. Pioneer Avenue, Homer, Alaska.

PRESENT: COMMISSIONERS ROBL, HARRIS, STEAD, YOUNG, MONROE, JONES, BURGESS, LEWIS

ABSENT: COMMISSIONER ETZWILER (EXCUSED)

STAFF: CITY PLANNER ABOUD
DEPUTY CITY CLERK KRAUSE

APPROVAL OF AGENDA

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

LEWIS/BURGESS - SO MOVED.

There was no discussion.

VOTE. YES. NON-OBJECTION. UNANIMOUS CONSENT.

Motion carried.

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).

Tony Burgess, resident, commented on the linkage between zoning regulations and the aspects of the legalization of marijuana and its cultivation and sale. He opined that the point was to seamlessly integrate a culture that for decades was illegal, into the culture of Homer. He advocated for less regulation up front and can learn and make stricter rules later as needed. He stated that this was an opportunity for the City to trust the people of Homer and see which way this culture can easily be integrated to ensure the prosperity of the maximum number of people in Homer. He understands the concerns about what the young see. They can watch the news and see more than he would want them to; he further stated that it isn't what the young see but how they are taught to deal with what they do see.

RECONSIDERATION

No items were scheduled for 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 May 28, 2015 Regular Meeting

Chair Young requested a motion to approve the consent agenda which consisted of the minutes of the May 28, 2015 regular meeting as presented.

BURGESS/LEWIS - SO MOVED.

There was no discussion.

VOTE. YES. NON-OBJECTION. UNANIMOUS CONSENT.

Motion carried.

STAFF REPORTS

Mr. Abboud provided a brief explanation regarding his reports at future meetings. He will provide a report to update the commission on various outstanding tasks or issues that he may be working on otherwise a report or outline will be provided with agenda items along with a staff recommendation on the action the commission can take on that item.

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 for public hearing.

PENDING BUSINESS

A. Review of the Draft Bylaws

Chair Young requested a motion to bring to the floor.

BURGESS/LEWIS - SO MOVED.

There was no discussion.

VOTE. YES. NON-OBJECTION. UNANIMOUS CONSENT.

Motion carried.

Chair Young asked for any comments or discussion regarding the draft bylaws.

Commissioner Lewis wanted to keep the meeting time to 5:00 p.m. in order to reduce overtime costs and impacts to the budget. Commissioner Burgess noted that the time of the meeting was addressed on line 38.

LEWIS/ROBL - MOVED TO AMEND LINE 38 TO SHOW AS "THE FOURTH THURSDAY AT 5:00 P.M."

Discussion ensued on the commission previously voted to change the meeting time to 5:30 and did not impact the budget to any severe degree and that it actually would accommodate the commissioners work schedules and allow them to grab a bite to eat even. It was noted that Chief Robl and the City Planner were salaried.

VOTE. YES. ROBL, HARRIS, LEWIS
NO. STEAD, YOUNG, JONES, BURGESS

Motion failed.

Commissioner Stead questioned where absences were addressed within the bylaws. He expressed concerns regarding the ability of a commissioner to miss any number of meetings with no action.

STEAD/- MOVED TO ADD UNDER SECTION C. REGULAR MEETINGS COMMISSIONERS ALLOWED UP TO 6 EXCUSED ABSENCES IN A YEAR AND UP TO 3 UNEXCUSED ABSENCES IN A YEAR TO RETAIN THEIR SEAT ON THE COMMISSION.

Ms. Krause pointed out line 49, which addressed notice of absences and line 149 which addressed the number of absences allowed before losing their seat on the commission unless excused. Commissioner Stead was satisfied with those guidelines and removed his motion.

BURGESS/LEWIS - MOVED TO ADOPT THE BYLAWS IN THEIR CURRENT FORM.

There was no discussion.

VOTE. YES. NON-OBJECTION. UNANIMOUS CONSENT.

Motion carried.

Commissioner Monroe arrived at 5:20 p.m.

NEW BUSINESS

A. Staff Report CAC 15-01 by Rick Abboud, City Planner

1. Zoning Districts for Marijuana Related Activities; Cultivation, Manufacturing, Testing, and Retail
2. Intensity of Activities; Limitation of Local Licenses, Distance Between Facilities
3. Exclusion of Operations in Certain Areas

Chair Young read the title into the record. Mr. Abboud presented his report. He additionally noted that he spoke with Representative Seaton today and asked about the interaction with the legislature and how it would affect this since in February 2016 the public can apply for licenses and they must respond in 90 days which the Legislature starts in January and Mr. Abboud did not believe that any action will be completed in time so the initiative rules and he has tried to take their tasks out of the initiative. So what he has presented is the tasks regarding local control such as zoning and those things related to the manifestation of this in the city as an actual activity related to this initiative.

The next things will be the legal aspects such as fees, licensing and structure outside of zoning and will require more legal help. Representative Seaton suggested that if they present recommendations and a good format the Legislature may adopt those recommendations. Mr. Abboud believed it will be a little murky what will happen at the beginning of next year but believed they could be ready with their recommendations regarding the zoning piece which is his expertise.

Mr. Abboud would like the Cannabis Commission to formulate a recommendation for the Planning Commission review that will be forwarded to City Council for adoption in an ordinance.

Mr. Abboud presented a PowerPoint presentation noting the following information:

Effective Date of Laws

- February 24, 2015 this date starts the clock on deadlines to meet
 - Personal Use laws become effective
- February 24, 2016 - Deadline for State to begin accepting applications
- May 24, 2016 - Latest date to process, issue or deny applications for licensing

Mr. Abboud did note that the Commission could recommend other means of penalties for those people's ages 18-21 so that they do not end up with a black mark for the rest of their lives.

Personal Use

- Over 21 may possess, use, display, purchase, or transport 1 ounce or less
- Possess, grow, process, transport 6 plants - 3 or less may be mature/flowering
- Transfer to Person 21 years of age or older 1 ounce or less and up to 6 immature plants without payment
- Manufacture, possess, purchase marijuana accessories

No consumption allowed in Public however consumption would be allowed on your porch or yard.

Commissioner Lewis requested clarification on what is "public" such as the porch at Alice's, would smoking be allowed. Mr. Abboud responded that Commissioner Robl can correct him but he believed that would be considered public since it was accessible by the general public, but if you had a private club not generally accessible by the public at large then it would be okay.

Commissioner Burgess argued that Alice's would be a private business, thus a private location since it denies access to persons under a specific age and they have the opportunity to deny service thus it would be deemed private not public. Commissioner Robl stated that if a business has published hours and is open to the public the law of public applies to it in this case. Commissioner Harris countered that is not necessarily true since the cities of Anchorage, Wasilla and Fairbanks are currently defining what is "public" and if there was already a law defining what public is they would not be trying to do that. She stated that the state did not have a defined meaning of public. Commissioner Burgess suggested that they define and codify "public". Mr. Abboud stated that the ABC Board has already done that and they could request clarification.

There were additional comments on the ABC Board being in the process of defining "public" and Mr. Abboud will follow that up for the next meeting.

Mr. Abboud proceeded with his presentation.

Marijuana Establishments

- Cultivation Facility
- Product Manufacturing Facility
- Testing Facility
- Retail Store

All must have current and valid registration.

Movement of raw materials to the consumer from seeds/immature plants, cultivation, product testing, Product manufacturing, manufacturing, retail stores

State of Alaska deadlines

9 Months - regulations to implement Chapter 38 of Alaska Statutes

- Issue, renew, suspend, and revoke a registration
- Schedule of fees for application, registration and renewal
- Qualifications for registration
- Security requirements
- Prevention of Sale/diversion to those not 21 years if age
- Labelling requirements
- Health and safety requirements
- Restrictions on advertising and display
- Civil penalties for failure to comply

He believed that the State will need to take the lead on most of these items since they do not have the resources as a municipality to address them.

1 year

Board must begin accepting and processing applications for registration of businesses

45-90 days upon receipt of registration application:

- Board must issue annual registration or notification of denial

Local Government May:

- Prohibit establishments
- Enact ordinances regulating time, place, manner and number of establishments
- Establish annual operating fees
- Establish civil penalties for violations of ordinances
- Create a local regulatory authority; ideally this commission would have issued the recommendation on the creation of this authority.
 - Will receive half of the state fees
 - Provide input on applications to the state Board
 - Issue registrations if the state fails to meet deadlines

- Must Notify the State Board
- Locally issued registrations will not be subject to State Board regulations for duration of registration.

The presentation pointed out that the following is unaffected by the new laws:

- "Ravin"
- Medical marijuana laws
- Marijuana DUI
- Employers may still restrict marijuana use in the workplace
- Private property owners/occupiers, schools, hospitals, correction facilities, etc., may prohibit or regulate marijuana on their property.

State of Alaska Department of Revenue

- Collect \$50 per ounce
 - sold or transferred between cultivation facility to retail store or product manufacturing facility
 - Certain parts of plant may be exempted or taxed at a lower rate as determined by the Department of Revenue
- Receive monthly reports from cultivation facilities which include total number of ounces sold the previous month with breakdown of weight sold/transferred to each buyer along with address
- Receive payment monthly from cultivation facilities
- Can impose civil penalties on delinquent payments
- Revoke registrations for failure to pay

This initiative can be amended by the legislature in the future. There was a brief discussion that no changes could be done within the first two years. The legislature can amend but not to the point that it amounts to an effective appeal; set up framework for regulations and promulgate regulations such as testing, security, distance, etc. Mr. Abboud felt that security could be addressed in zoning. He recommended following what Colorado and Washington have done regarding display using a green cross which is becoming a universal symbol.

Local governments can prohibit or regulate more severely than the state but not less than the state. They cannot prohibit personal use, marijuana accessories, contradict the Act or restrict within a home, (Ravin Act).

Mr. Abboud provided samples of what the City of Fairbanks did regarding presenting to the public, where it was permitted and the processes to how it would be approved in regards to zoning issues. The presentation divided the zoning into categories of Cultivation, Manufacturing, Testing and Retail; applying the Federal standards in regards to locations near schools, playgrounds, public housing, pools, arcades, youth centers referred to as "double penalty areas" focusing on eight different points from protection of minors being the top number one priority to no use or possession on federally owned property.

Commissioner Lewis inquired if they could draft the ordinances and maps similar to what Fairbanks has done and Mr. Abboud noted that maps were provided on pages 109 and 111 of the packet. He questioned why Maddox would be a Federal Double penalty area. Mr. Abboud responded that with the location of the Flex School and a playground.

Mr. Abboud continued by explaining the general process for applying for a permit and conditional use permit. He referenced his report regarding what is currently allowed now in the different zoning areas. Currently the East End Mixed Use District which starts from Alder to Kachemak Drive pretty much anything goes right now, he refers to it as the "Party Zone"

Mr. Abboud commented on outdoor facilities. Commissioner Lewis suggested making the difference between the product used for hemp and the higher THC content used for smoking; he referenced the note under the taxation reference. Commissioner Burgess suggested that they could probably recommend that if there was ever a distinction between the two it could be addressed.

Commissioner Monroe offered that use of the word manufacturing provided a connotation of heavy industry but this would be more along the lines of kitchens.

Mr. Abboud responded that you would not have manufacturing in residential areas and believed that they would be off limits. Low intensity manufacturing may be allowed in the CBD with something to address security issues but higher intensity would have to be moved out to the industrial areas. Testing Facilities he doubts they would be in that market but they do call out testing to be done in the industrial areas. He noted that on the spit it is supposed to be tourism related industries and that may fit but will have to see about that. He did not support any activity in residential areas.

He used the same distances as shown in Fairbanks. he has proposed the same buffers:

1000 feet

- Schools K-12
- Playgrounds
- Public Housing

500 feet

- Post secondary education facilities

100 feet

- Youth Center
- Public Swimming Pool
- Arcades
- Residential Homes

There is no separation for day care centers, pre-schools, churches, libraries, public parks without playgrounds, test labs.

Mr. Abboud commented on building requirements regarding ventilation, hazardous mitigations, hours of operations, insurance coverages, enforcement and cost related to those. He would like to make decisions as fast as possible to have recommendations ready by September in order to have the public process and be ready by February.

He asked the commission to refer to the maps on pages 109 & 111 and noted the brighter yellow areas which cover the federal double penalty areas and included Karen Hornaday Park, West Homer Elementary, Homer Middle School, Homer High School, Flex School, College, Jack Gist Park, Ben Walters Park. East End Mixed Use areas is available for all aspects of this, there are some small areas that would be available for commercial uses along Kachemak Drive and Ocean Drive, Bay Crest, in town center and the Central Business District you may be able to operate retail or small manufacturing businesses.

Staff Recommendations to forward to the Planning Commission:

1. Eliminate cultivation in rural residential

- This activity is not one that is seen as compatible with residential activities
- Residential Uses are clearly favored in the district
- the District supports many families with children
- Many parts of the district are closer to urban standards which makes this activity even more incompatible

2. If not eliminating cultivation in rural residential

- Make it a conditional use
- Make special conditions for conditional use consideration
 - Minimum lot size
 - Minimum setback
 - Security
 - Screening

3. Allow unlimited manufacturing in General Commercial 2 districts

4. Allow testing in General Commercial 1 district

Commissioner Lewis recommended that any conditional uses permitted in the Bridge Creek Watershed District be defined as organic with no uses of fertilizers since it is in the water supply. Commissioner Burgess advocated for permitted outright uses since there was already enforceable code body for the area, he further expressed that the area that has been designated a commercial (purple area on the map provided) was over 80% wetlands and would not be suitable so he would really like the commission to consider not making it so uninviting in Homer that we lose out on the tax revenue that could be earned through cultivation and in his opinion the best way to take advantage of the smaller cultivation operations and believes they should take the approach to limit it to 1000 sf etc.

The commissioners continued a lengthy discussion regarding their viewpoints on allowing cultivation in rural residential and residential districts as permitted outright or permitted by conditional use; increased security issues in those areas; increased opportunities for those persons under 21 to be exposed to or tempted by the close proximity of the product; retail operations on the Spit; limiting cultivation only in the East End Mixed Use District; liking the process outlined by the Fairbanks North Star Borough as presented in the staff presentation; advocating for the possibility of increased commerce for the city since other areas are considering bans against cultivation and retail operations; possible testing facilities and the costs involved to have those facilities locally; creating such restrictive environments that the small business operation does not have a chance to compete and the larger operations will not be willing to pay the costs when it is much more cost effective to be outside city limits; telling a property owner what they can and cannot grow in their greenhouse, what to do on their property.

Commissioner Stead could agree if you are growing it commercially then you must get the license, and pay the fees and believed a conditional use permit where they can then limit the size, security measures, screening, etc. He did not believe that it should be allowed in urban residential due to the small lot size, he also did not believe it belonged in the rural office district as it was not appropriate.

Further comments from Commissioner Monroe and Burgess regarding using the number of plants when the size of a single plant can vary greatly and the use of square footage is more practical noting that regulating by plant numbers invites circumvention of the intent of the initiative and not permitting in urban residential made good sense and limiting above 500 square feet as minimum and anything above must have a conditional use permit and what was involved when going through the conditional use process may not be favorable to the applicant. A reasonable allowance should be instituted and anything above and beyond should then have to jump through additional hoops or deny it.

Commissioner Stead noted that a regulatory board may be established and can then take over the responsibility of the Conditional Use Permit. Mr. Abboud was not to favorable of that action but was favorable if conditions were met for the Conditional Use Permit adding that it did not make sense that someone who could produce 50 plants would not grow 100 or more.

Further discussion on the commission being agreeable to removing cultivation from urban residential, rural residential - cultivation provisions, testing allowed in GC1, retail on the spit

B. Intensity

Consider if you would like to forward anything beyond being subject to state regulations. The state may not have any limitations on the number of licenses that are issued, if there are limits then the city will be bound by those limits, unless the city is more restrictive.

1. Should activities have a designated spacing between them (individually or collectively) to avoid undue concentration? 1000 or 500 feet, or something else?
2. Should facilities be limited to a specific amount citywide?

There was a brief discussion on further exclusions and limiting specific facilities, the state does not have any intent to limit facilities at this time, testing is supposed to be done for every harvest or batch, costs range from \$75-175 per sample, the results are too unreliable with many factors that the results depend on tester, cleanliness, etc. The commissioners briefly discussed cannabis products such

as edibles and testing, noting that the economic feasibility of a business is up to the grower, manufacturer, etc.

C. Exclusions

1. Are the proposed areas of exclusion adequate (per presentation on page 38, "What FNSB is Proposing for Buffers" 1000ft K-12, playgrounds; 500ft - post-secondary; 100ft - youth center. The proposed area is the minimum recommended. Should they be extended or should other activities/uses be considered?

Mr. Abboud will bring this back for the next meeting and try to include items that were not included.

The commissioners entertained a discussion with staff on scheduling additional meetings and worksessions along with producing a draft document to facilitate their work in a more expedient manner noting that there was a short time period for the commission to complete its assigned work and expressing that meeting once a month may not bring about the desired results within the specified time allotted.

INFORMATIONAL MATERIALS

A. Commissioner Attendance at City Council Meetings

Chair Young requested the commission to review their assigned date to attend a Council meeting and if there were any issues to let her know.

COMMENTS OF THE AUDIENCE

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

Glenda Korn, thanked the commissioner for being there, she believed that Homer had an opportunity to move on this issue with minimal government interference. Ms. Korn commented on the aspect of kids breaking into someone's greenhouse and recommended bringing back the Boys and Girls Club to keep the kids occupied. Ms. Korn expressed concerned on the Spit regulations because she works out there and believes that it could be a booming business out there, not cultivation but retail, she would also like to see something drafted sooner rather than later and if it has to be changed that is okay.

Lindianne Sarno, city resident, and here representing the Kachemak Cannabis Coalition, and wanted to let the commission know that they have a qualified Lab Scientist who is seriously considering opening a testing facility in Homer. She would also like the commission know that there are several people who attend the Coalition meetings because they are interested in quality cannabis products for medicinal reasons. There is more than tourism and recreational interest that could be fulfilled by people in this community by the growing town.

COMMENTS OF STAFF

Mr. Abboud stated he will be working hard.

Ms. Krause was not asked for her comments.

COMMENTS OF THE CHAIR

Chair Young stated that she is impressed by the creativity of the commission. She asked that they keep that going. She expressed her hesitation in banning things outright and enjoyed the discussion on the rural residential. Ms. Young encouraged allowing innovation and believed that a way to do that would be to allow it to occur on a small scale. She would hate to see any portion of this business be cost prohibitive and did not want to see it moved to only one area such as East End and industrial zones. Keep up the good work.

COMMENTS OF THE COMMISSION

Commissioner Robl commented on the issue of cultivation in rural residential and the misconception regarding the law, the laws are in effect it is illegal to consume marijuana in public and there is a definition of public, they are enforcing that and they will not argue it with anyone either. They have issued one citation and they were convicted.

Commissioner Harris commented on the opportunity availability for all of Homer since they are a very friendly community to marijuana and that they can create a very good export business from this.

Commissioner Stead likened the opportunities to the craft beer brewing that has been going on for the last 15 years. You can open them if you want to spend some money for a one barrel brewery but you will not make any money, but you have to look at economies of scale and there will be a break over scale. The smaller operations will not make it very far. However he does not see a lot of big operations coming to Homer, but you never know. He believed that they will have to wait and see about the regulations in rural residential.

Commissioner Monroe he did not have anything to add to the discussion tonight but believed that they had a ways to go to reach consensus as a body regarding the rural residential.

Commissioner Jones thanked the audience for attending and providing comments to the commission.

Commissioner Burgess issued his appreciation of the audience similarly. Mr. Burgess liked to see the public come to provide input by taking advantage of the opportunities to speak at the beginning and ending of every meeting to let this commission, council or the planning commission know as this moves forward. He further commented on how he viewed his role on any political body that sets policy or makes recommendations as trying to best express the will of the people and to provide a regulatory environment that is not as onerous and is as reasonably enforceable as possible. During his time on Council he has come to realize that a lot of the large financial problems have roots in poorly crafted contracts or regulations, things that cannot be enforced easily or create inter-neighborhood conflicts or safety situations that just don't work out, so he encourages moving forward to those of you who may have a different standpoint or who coming at this from a different angle to try to find a common ground or make reasonable compromises in terms of policy enforcement to have that open mind. It makes it difficult to have a discussion where people just won't bend on a certain point or where there is a whole lot of overlap and just sensible common ground. He believes most people on the commission are rational people and if they keep moving forward they will have a good final product and hopefully do well by their town and their government.

Commissioner Lewis thanked everyone for coming and everyone for serving and the next meeting will start at 5:30 on the 23rd of July.

ADJOURN

There being no further business to come before the Commission, the meeting adjourned at 7:00 p.m. The next regular meeting is scheduled for THURSDAY, JULY 23, 2015 at 5:30 p.m. in the City Hall Cowles Council Chambers.

Renee Krause, CMC, Deputy City Clerk

Approved: _____