I. ROLL CALL

The meeting was called to order by Chair Jesse Kiehl at 6:02 p.m.

Committee members present: Chair Jesse Kiehl, Mary Becker, Maria Gladziszewski, Bill Peters, Mike Satre, Debbie White (telephonic and in-person). Gordon Jackson had resigned from the Marijuana Committee, and was absent this meeting.

Staff present: Kim Kiefer, Manager; Amy Mead, City Attorney; Chief Bryce Johnson; Deputy Chief Ed Mercer; Deb Senn, Law Office Manager/Clerk; Chrissy McNally, Planner, Community Development; and Beth McKibben, Planning Manager, Community Development Department.

II. APPROVAL OF AGENDA

Chair Kiehl proposed a change to the agenda which would reverse the order of topics V. A. and V. B. The Committee will start with the JPD presentation and teleconference in a guest speaker from Cortez, Colorado.

Hearing no objection, the agenda was approved with the above change.

III. APPROVAL OF MINUTES

MOTION by Mr. Peters to approve the April 9, 2015 Minutes, with minor typographical amendments.

Hearing no objection, the April 9, 2015 Minutes were approved.

IV. PUBLIC PARTICIPATION

(Limited to 20 minutes, three minutes per speaker)

Robert Percivel - After reviewing the meeting packet, Mr. Percivel stated that Juneau is not like Colorado and Juneau cannot compare itself with laws from other states. He stated much of the presentation in the packet is obtained by survey [the audio was lost temporarily during Mr. Percivel's testimony]. Mr. Percivel suggested that CBJ look at
what other states have done wrong, learn from their experiences, and improve upon that.

*James Barrett* – Mr. Barrett stated that many of the statistics in the packet presentation are from different sources, and the reader needs to pay close attention to where the statistics are coming from. He specifically referenced the Drug Policy Project, which has several different sources – [www.drugpolicy.org](http://www.drugpolicy.org) is their website. This website is a good resource to find information about marijuana legalization throughout the United States. Also, Colorado statistics show the benefits of legalization and the types of education programs for youth that were created as a result of new resources and tax revenue. The education programs benefit youth by informing them about what marijuana legalization is and how to stay away from harmful substances.

*Ben Wilcox* – Mr. Wilcox wished to speak on the presentation. He stated that his wife was a member of the Alaska state delegation that visited Colorado last year. She spent three days with industry and state officials prior to going to the three-day law enforcement junket. The attitudes of state officials were quite different than those of law enforcement. Mr. Wilcox addressed certain information and notes within the presentation entitled ‘The Legalization of Marijuana in Colorado – the Impact / Volume 3 Preview 2015’. He asked that readers look at the information presented as a juror looks at evidence, and to not convict an entire industry before it is born.

**V. AGENDA TOPICS**

**A. Juneau Police Department presentation, by Chief Bryce Johnson**

*The Legalization of Marijuana in Colorado – The Impact*

- City of Aspen, Colorado - Ordinance No. 38
- City of Cortez, Colorado – Ordinance No. 1192

Chief Johnson presented information from other jurisdictions in Colorado and law enforcement’s perspective on how ordinances were working.

Chief Johnson stated that Colorado is very much a divided state with regard to the legalization of marijuana. Certain counties are not allowing retail sales. The other counties allow partial legalization - they are not fully in or fully out. He learned that everyone seems to have an agenda, no matter which side they are on. It is difficult to find statistics that are not without an agenda.

Chief Johnson stated his own agenda is 1) to get the best information he can, and 2) to make this work for the municipality, but make it work in a way that does not increase the amount of law enforcement. He stated it would be a mistake to craft legislation to create more marijuana enforcement than has been done in the past – that was not the intent of the initiative.
Chief Johnson stated that the ‘Rocky Mountain High Intensity Drug Trafficking Area’ report is law enforcement’s general perception. Most of law enforcement believe legalization of marijuana is not working very well. They do have an agenda – they want to repeal legalized marijuana. The generalizations that can be taken from the report are that DUI cases are up. The Juneau Police Department anticipates having to do more enforcement, and start an ARIDE (Advanced Roadside Impaired Driving Enforcement) program, which is a bridge between regular field sobriety tests that officers currently do and a drug recognition expert. Also, underage use and possession appears to be up in Colorado, and JPD would anticipate that happening in Juneau, with the possibility of more issues in schools, and issues with public use and possession.

Chief Johnson looked to other localities and agencies for legislation. Deputy Chief Mercer and Chief Johnson made cold calls to other jurisdictions and pretended to look for ways to purchase marijuana. He looked at websites and ordinances for cities that had retail marijuana, cities that were similar in size to Juneau, and had a tie to tourism.

The City of Cortez, Colorado, was selected as it is somewhat smaller than Juneau. Cortez is a gateway to Mesa Verde National Park, located in the Four Corners area. Chief Johnson also reviewed Steamboat Springs, Colorado, which is a major ski resort town with its entire economy based on tourism from the ski resort; and Aspen, Colorado, also a ski resort town with a big tourism industry. He spoke with Boulder, Colorado – Boulder was the largest jurisdiction.

Chief Johnson included ordinances in the packet from the Cortez and Aspen, Colorado. Chief Johnson stated that Chief Roy Lane of the Cortez, Colorado, Police Department will be on the phone with the Committee this evening. He stated that Cortez has five or six marijuana retail outlets with a new retail outlet about to open. They are actively experiencing commercialized marijuana. Cortez has restrictions on ownership of and employment at marijuana retail stores, similar to Juneau’s pawn shop laws. Juneau restricts a known burglar or thief from working in a pawn shop. In Cortez a person cannot be a known drug dealer and open a marijuana business or become employed at a marijuana business.

Chief Johnson stated that Cortez also has operational requirements, and those requirements were consistent throughout many jurisdictions. Cortez required notice of overdose information at the point of sale and also a hotline number to call in case of an overdose. An additional requirement was to provide information regarding drug abuse addiction programs in the area and the dangers of addiction.

Chief Johnson spoke about a number of security requirements inside retails stores. Security cameras were required at the point of sale, entrances and exits, and the general store. There are strict requirements on the quality of the cameras, including pixels and storage/retrieval capabilities. A safe is required on site that is bolted to the floor so it cannot be removed. Active burglar and fire alarms are also required in each location. There are requirements for exterior lighting and an exterior camera system that monitors the entrance point and general parking areas.
Cortez indicated there was some increased availability to kids, similar to cigarettes or alcohol – parents have it at home, so the kids will have access.

In Colorado there is a state board – similar to what the State of Alaska will create – with 13 inspectors who conduct state enforcement. All jurisdictions said that was not sufficient. Jurisdictions did not receive sufficient state enforcement, and they had to take that on at a municipal level.

Chief Johnson spoke about Steamboat Springs, Colorado, which has zoned marijuana retail shops as Light Industrial. Steamboat Springs also added an inspector themselves. They hired a full-time civilian employee as an inspector; the position is not through sworn law enforcement. They mandated person-to-person sales, no vending machines. Steamboat Springs’ security requirements were very similar to those of Cortez, and they also prohibited guns, knives, or weapons inside the marijuana shops.

Chief Johnson addressed odor, which has been an issue of concern for Juneau. Boulder required ventilation systems in their retail stores and in their grow facilities. The requirement was you could not smell odor outside of the building.

Chief Johnson stated Aspen, Colorado, has banned possession and use in public. Also, Aspen limited the owners’ interest to one shop in their jurisdiction. He was informed that in the tourist locations, large crowds would form long lines outside of retail shops. The shops were very much a novelty when large groups were in town.

Chief Roy Lane from the Cortez, Colorado, Police Department appeared telephonically. Chief Lane was joined by Jerril G. (Sam) Proffer, CBO, CFM, Director of Planning and Building, Cortez, Colorado.

Ms. Gladziszewski asked Chief Lane how long the City of Cortez had been implementing legal marijuana.

Chief Lane stated medical marijuana had been legal for about two years, and Cortez just implemented recreational marijuana in the last year. He stated it has been a learning experience. One of the best decisions Cortez made was to limit the number of marijuana shops in the community based on rules and regulations through planning and zoning. The limit was based on the geography of the area in relation to required buffer zones.

Ms. Becker asked about jurisdiction in relation to State of Colorado laws.

Chief Lane stated that Cortez followed the State law, but the State did not have the manpower. A compliance officer was hired for the City of Cortez to enforce laws for medical marijuana, recreational marijuana, liquor, and tobacco.

Mr. Satre asked about cultivation and if it was allowed in the community.
Chief Lane stated that they do have cultivation in the community. In Cortez there are two shops that do their own cultivating and three shops that do not cultivate. Chief Lane stated that Cortez does not separate shops from cultivation – they are all within the same buffer zone.

Chief Lane stated shop owners must have a fingerprint card, which is submitted to the Colorado Bureau of Investigation to confirm criminal history for determination on licensing. Owners must have a license to work in the shop. Both the State of Colorado and the City of Cortez have regulation requirements before a license can be issued.

Chief Lane stated that the most difficult part was the learning curve to keep the shop owners trained on the rules and regulations. Also an issue is the influx of people coming to Cortez from surrounding states simply to purchase marijuana. They arrive with no place to live and then move into the homeless shelter. There have also been a number of burglaries at the marijuana shops.

Ms. White asked about the limit on the number of shops to five, and how the decision was made on who got a license if there were a large number of applicants.

Chief Lane stated the license was issued on a first-come, first-served basis.

Chief Lane stated that they will not know of issues resulting from legalized marijuana for 4 to 5 years; such as social services calls for children, more emergency room calls, etc. They are keeping records at present for statistical purposes.

Ms. Gladziszewski asked what is required to move product from point A (growing) to point B (processing) to point C (seller) – how is it transported.

Chief Lane stated a manifest is used to track how much is picked up and delivered from point A to point C, there is no point B. The police have a right to look at the manifest at any time and the State and City of Cortez can monitor the transportation. Security companies also transport from point A to point C (seller).

Chief Lane stated that the State does not allow smoking clubs; that is mandated by state law.

Chief Lane stated that Montezuma County opted out. The legalized marijuana is within the municipality’s jurisdiction. The city’s airport happens to be in the county, so there have been no problems with air transport of legalized marijuana. [End of Chief Lane’s presentation]

Chief Johnson stated that what happened with the legalized marijuana bled into what was still illegal, causing jury nullification, and prosecutorial enforcement was much more difficult. The CBJ can expect something similar to occur.
Mr. Peters asked Chief Johnson what his top three concerns would be moving forward.

Chief Johnson stated his top three concerns are impaired driving, underage use and possession, and public use and possession.

Chief Johnson stated ARIDE is a bridge between the Standard Field Sobriety Test (SFST) and recognition of impairment by drugs. The SFST can detect impairment over .1 percent, which, by definition, is probable cause. The next step is a Drug Recognition Expert (DRE), which requires specialized out-of-town training at considerable expense. ARIDE is the bridge training in the recognition of drugs and narcotics, a bridge between SFSTs and DREs, and that training can be taken locally.

Chief Johnson stated field tests will still be used to detect impairment. If something other than alcohol is suspected the next step would be to call in a DRE – there are three certified DREs in Juneau. Once the ARIDE program is available, the ARIDE would conduct SFST first, and if probable cause for alcohol they would continue on as normal – if marijuana or some other substance is detected they would continue on to perform the ARIDE program.

Chief Johnson stated that CBJ needs a per se law to request breath, blood, or urine, and allow for officer’s discretion on which they request. There would be different tests for different substances.

Chief Johnson stated that not a lot of officer time has been spent on marijuana in the past. If an individual was smoking in view, or the substance was in a car within view, enforcement action was taken. He anticipates undercover marijuana enforcement will decrease. The statistics from 2014 show that marijuana seizures dropped from 2013, and will likely be less in the future. Chief Johnson anticipates an increase in driving under the influence, similar to what Colorado has experienced.

Chief Johnson noted that the Colorado cities that had authorized retail shops had created websites that clearly explained exactly what could, and could not, be done in relation to legalized marijuana.

Chief Johnson stated that the police dog JPD will be receiving will not be trained on marijuana. He stated that dogs could be trained on marijuana, however it makes the probable cause difficult – it leaves open the argument that the dog indicated on something legal.

Chair Kiehl asked if Chief Johnson had the opportunity to look at emerging gray areas, such as current illegal sales of marijuana. In other jurisdictions down south you can find a decorative glass jar of marijuana for sale for $300, which includes a free gift with purchase. He asked if ordinances addressing that type of situation had been located, specifically an ordinance that would prevent people from grabbing a market share through the legalized marijuana sales. He asked Chief Johnson and/or the City Attorney
to research this issue and inform the Committee so they could forward a recommendation to the Assembly.

B. Community Development Department presentation, by Chrissy McNally
Zoning and Marijuana Establishments

The presentation can be viewed online at:

Discussion topics included: Fire risk from heat lamps during cultivation (a 1,000 watt lamp covers an area of approx. 25 sq. ft.); temperature for cultivation; natural light versus artificial light; hash oil extraction using combustible and flammable gas method; growing in warehouses versus growing in greenhouses; HVAC requirements; communications with other jurisdictions regarding their zoning and planning experiences; buffers from residential and retail locations; a draft Table of Permissible Uses (TPU); employee safety during CO2 enrichment process, which growers use to create an oxygen deprived atmosphere.

Chair Kiehl asked if Capital City Fire and Rescue (CCFR) had been contacted to see if current Code is sufficient for fire risks.

Ms. McNally stated she had reached out, but had not heard back from CCFR.

Mr. Satre asked that Ms. McNally continue to follow-up with CCFR.

Ms. McNally summarized her conversations with approximately 15 different communities. A few of the predominant themes involved marijuana establishments being prohibited in residential zoning districts. Odor issues are addressed by adding more carbon filters in the facility. One community in Colorado required retail stores to have additional filters. In Denver public consumption was remedied through education. Telluride managed this with pamphlets and flyers regarding public use. This is of particular importance for visitors/tourists.

Ms. McNally stated that in Washington, there is a limit to the number of establishments per municipality. Colorado sets limits through zoning and allows certain land and retail locations for marijuana establishments. The use of buffers and zoning limits relieves concentration of establishments.

Ms. McNally reviewed definitions (see presentation for detail) – and highlighted the definition of marijuana product.

Ms. McNally discussed the TPU regarding commercial cultivation facilities. She noted that odor is a concern with Light Commercial and Industrial. Rural Reserve has larger lots, however private Rural Reserve can be densely populated.
Mr. Satre stated an ordinance similar to the cell tower ordinance may be appropriate. He asked that staff (Law and CDD) determine what special use provisions might go with the TPU.

Ms. McNally stated that Colorado has both state and local licensing, and many municipalities require conditional use permits. In Washington there is no local licensing. Due to clean air laws, marijuana clubs in both Washington and Colorado have not opened. With a conditional use permit, marijuana clubs could be appropriate in designated districts.

Mr. Peters asked about buffers – what is in the State legislation for buffers.

Ms. Mead stated there is no buffer adopted by the State yet.

Ms. McNally stated 1,000-foot buffers are very restrictive – 200 feet was considered in the legislature. Both 1,000-foot and 500-foot buffers are used in Telluride, and all communities added a 200-foot additional buffer in residential areas.

Ms. Mead stated that jurisdictions chose a 1,000-foot buffer as a sentencing enhancer. This is from federal law – if a crime occurs within 1,000 feet, it’s a sentencing enhancer for many, but not all, of the communities.

Chair Kiehl suggested that staff prepare maps with 200/500/1000 foot buffer sizes that encircle of circle private residences, churches, and public, private, and charters schools for the next meeting.

Ms. Mead asked for CDD to also include licensed daycares.

Ms. Gladziszewski stated that daycares are more transient.

Ms. White asked to include playgrounds in buffer zones.

Ms. McKibben stated that schools, licensed daycares, churches, and correctional facilities were used on the initial maps. The initial maps were developed based on some of the language included in bills going through the State legislature.

Chair Kiehl requested that the existing regulation (Title 4) be used for altering the maps, which includes churches, schools, licensed daycares, and correctional facilities. The Committee agreed.

VI. COMMITTEE MEMBER COMMENTS AND QUESTIONS

Mr. Satre stated that the TPU is a great starting point. The next meeting will provide a general consensus and enable the Committee to direct staff on zoning regulations for the TPU and special use provisions; Law can then prepare a draft ordinance.
Ms. White stated that she will need to attend telephonically at the next meeting on May 21st.

Ms. Gladziszewski requested additional ordinances from other communities for review.

Ms. Becker inquired about distance from schools – whether it is the same for all establishments (stores, cultivation, etc.).

Chair Kiehl stated that, at present, that is for CBJ to decide, until the State says otherwise. He also requested that staff create the proposed TPU lines and possible buffer zone maps to forward to the Planning Commission.

Chair Kiehl requested further discussion on local regulatory authority by the Committee. He said there is a remote possibility that CBJ may need to prepare for local regulatory authority. Chair Kiehl stated he will work with staff to bring a presentation to the Committee at a future meeting.

**VII. ADJOURNMENT 7:58 adjourned.**