I. ROLL CALL

The meeting was called to order at 6:05p.m.

Committee members present: Jesse Kiehl, Mary Becker, Debbie White, Maria Gladziszewski, Dennis Watson.

Committee members absent: Bill Peters and Mike Satre

Staff present: Kim Kiefer, Manager; Rob Steedle, Deputy Manager; Amy Mead, Municipal Attorney; Deb Senn, Clerk/Law Office Manager; Bryce Johnson, Chief of Police; Hal Hart, Director, Community Development Department; Charlie Ford, Building Code Official; Sven Pearson, Deputy Fire Marshal, CCFR

II. APPROVAL OF AGENDA

The agenda was approved as presented.

III. APPROVAL OF MINUTES

Hearing no objection, the July 2, 2015 Draft Minutes were approved as presented.

IV. PUBLIC PARTICIPATION - None

V. AGENDA TOPICS

A. Marijuana Facilities and the Building Codes, presented by Charlie Ford, Building Codes Official, Community Development Department


Mr. Ford discussed Occupancy Classifications in detail, which included:

- Grow Operations and Processing Operations and associated risk factors from lights, heaters, and extraction processes.

- Retail Operations which involve risk factors such as egress, security, and ventilation.
- Smoking Parlors will require strict ventilation requirements. If the occupancy load is greater than 100 persons, or the floor area exceeds 5,000 square feet, then sprinklers are required. If the occupancy is smaller than 50 occupants it is a B Occupancy, which is a business occupancy similar to a post office or a barber shop, with very low risk factors, no sprinklers, just ventilation and egress would be the only two issues involved.

- Home Occupation and Title 19

Mr. Kiehl asked if the International Codes covered the scenarios for marijuana smoking parlors.

Mr. Ford stated that the International Codes cover an A-2 Occupancy, but they do not mention smoking parlors because they are new to the International Codes. They do have ventilation requirements for A Occupancies, which are also bars and restaurants.

Ms. Gladziszewski inquired if the A-2 Occupancy would cover where smoking occurs with more than 100 occupants, and under what authority would ventilation be required.

Mr. Ford stated that the A-2 Occupancy is required to have 60 CFM (cubic feet per minute) per occupant, and is already built into the Code.

Mr. Kiehl asked if the current Code would allow for a covered smoking deck.

Mr. Ford stated yes, a covered smoking deck would be allowed under current code with two open sides to meet the ventilation requirements. If the floor area was within Code required limits, sprinklers would not be necessary.

Mr. Ford discussed Home Occupations. Currently CBJ Title 19 allows only a grow facility in a home occupation. Processing would not be allowed as Title 19 is currently written.

Mr. Ford stated that a Home Occupation means within the four walls of the home, not outside the home.

Ms. Becker asked about ventilation and how it protects the smoker and other occupants.

Mr. Ford stated that some bars nation-wide still allow smoking in bars and restaurants. The International Code requires a minimum of 60 CFM per person ventilation to protect occupants.

Ms. Becker referred to a memo from the American Society of Heating, Refrigerating and Air Conditioning Engineers, which states that particulates cannot be prevented except by not allowing smoking. The memo states that to achieve the minimum risk an excess of 100,000 CFM per occupant in order to not have any health risks.

Mr. Ford stated that 60 CFM per person is similar to a small bath fan.

Mr. Kiehl inquired further about Home Occupation, and if there is any level of Extraction that would be allowed for a Home Occupation under the current Code.

Mr. Ford stated that fumes and odors would be involved, and Title 19 would be questioned highly for those conducting extraction in the home.
Mr. Kiehl stated that the Committee is working with CDD and the Planning Commission on the definitions, including Manufacturing, which would include trimming and drying plant matter. He asked how Light Manufacturing or Marijuana Processing would impact Home Occupations.

Mr. Ford stated that it would depend on the written plan submitted to CDD with permit application.

Mr. Ford stated that the major concerns of the building officials include: Occupancy classification, egress, security, separation from other structures and property lines, electrical loads, plumbing issues/backflow protection, ventilation, waste disposal, and political pressure.

Mr. Ford stated that the biggest fear is the non-permitted facilities as with any other business. He stated that CDD wants to make the permit application process comfortable for citizens.

B. Engineering and Public Works Department Memo re: Fertilizer / Runoff Potential Impacts on Wastewater System


Mr. Watson addressed the indoor growing facility issue at paragraph 3 of Mr. Watt’s memo. Currently CBJ has commercial greenhouses, and large private greenhouses. It appears from the memo that commercial greenhouses are exempt. It’s a natural practice for commercial greenhouses to use fertilizers. Mr. Watt addressed fertilizer / run off issue from a marijuana grow operation perspective, but CBJ has other growing activities currently such as commercial greenhouse operations with drainage and fertilizer use.

Ms. White inquired how someone would prove that the run off would not be a problem at the Wastewater Treatment Plant – does CBJ have regulations in place to cover other greenhouse operations, and if so, what are those regulations.

Mr. Steedle stated that staff would get back to the Committee with current regulations for utilities and fertilizer / run off for existing greenhouse operations.

C. Municipal Attorney Memo re Update on Proposed State Regulations / KGB Comments


Ms. Mead stated there are a few specific issues that impact CBJ as a municipality – there are many very specific regulations that impact industry which are outside the city attorney’s scope of review. Issues that impact CBJ are:

1. If CBJ decides to limit the number of establishments by type, currently there is no mechanism in the regulations for dealing with competing applications.

2. Notice to the municipality when a new application is being submitted is the only notice provided for in proposed regulations. There is no provision for public notice for renewals, transfers, etc. Notice to the municipality is needed for protests as well.

3. A 200 foot buffer from all types of child facilities (playgrounds, child care, schools, etc.) is required.
4. There is a prohibition against a marijuana establishment being located next to an alcohol licensed establishment.

5. Retail stores cannot post an advertisement sign within a 1,000 foot buffer from any childcare facility or any other identified protected place. In CBJ, this very much limits where an establishment can be, especially within the Downtown area.

6. There is no consumption on licensed premises. The proposed regulations currently seem to prohibit clubs entirely.

7. Restricted area access and signage conflict – retail operations and other establishments.

Ms. Becker asked if the conflicting information would be addressed in CBJ’s comments to the Marijuana Control Board (MCB), or if other municipalities had addressed the conflicts.

Ms. Mead stated that current public comments from municipalities are all for Set 1 of the proposed regulations. No public comments from other municipalities have been posted for Set 2 of the proposed regulations.

Ms. Mead stated that there is a regulation that dictates the hours of operation, which is left to the municipality under the alcohol regulations, but is being proposed as a MCB regulation currently.

Mr. Watson asked about the size of signage in proposed regulations, and if sign size conflicts with CBJ’s current Code.

Ms. Mead stated that proposed regulations allow for a larger sign than CBJ would allow under current Code. She stated that the regulations in some places go too far to regulate time, place, and manner, which by statute were specifically left to the municipalities to regulate. Ms. Mead stated that if a regulation is not a health and safety issue then it should be left to CBJ to regulate.

Ms. Becker stated that Mr. Kiehl mentioned smoking outside in an open two-sided area, and she inquired how that applies to the prohibition on smoking in public.

Ms. Mead stated that CBJ’s Second-hand Smoking ordinance would prohibit smoking in that type of area if viewable by the public. Smoking is only allowed in a private place with fewer than four employees, and where no food, alcohol, or marijuana is sold.

Mr. Kiehl stated that the proposed regulations state that anyone with a financial interest must be an Alaskan resident. He inquired is this because of Federal law - can the State limit to Alaska residents only.

Ms. Mead stated that this is a conflict and she did not know the justification for a “compelling State interest”. She stated that this is troubling and that there were comments provided by the public to the MCB on this subject.

Mr. Kiehl stated that the State tried to limit hunting guides to Alaska residents in the past, and that failed.
Ms. Mead stated the only reason she could think of for limiting to Alaska residents only is that the recreational marijuana business is illegal under Federal law.

Ms. Mead stated if a municipality has a protest with rational basis the license is denied; which is unlike liquor protests by a municipality, where the State will considered the protest, but does not need to act on it. Presumption is in favor of municipalities, if the municipality puts up a valid protest it will be upheld by the MCB. The CBJ can protest any action (renewals, transfers, new applications, etc.), but will only receive notice on new applications.

Mr. Kiehl inquired about marijuana handlers and other individuals employed in the marijuana trade – can the MCB revoke those cards before a three-year license is up. He noted the MCB would not have a way to revoke a “bad handler’s” card.

Mr. Kiehl stated that the transportation section stated marijuana retails could not transport old materials off-site, and materials could not be sent to processor for extraction.

Ms. Mead stated that the retailer has no mechanism to transport product to a testing facility, or for testing facility to transport to a retail store. Transportation is allowed only from retail to retail facilities.

Mr. Kiehl stated that some of the issues discussed here will be CBJ comments to the MCB. The structure for this is for the Committee to make a recommendation to the Assembly, and the Assembly will decide what comments to make.

Mr. Kiehl stated CBJ comments should include speaking in favor of the municipal protest language that is proposed, and to ask that the MCB leave regulation of hours, sign size, sign location, and the question of consumption on licensed premises to municipalities to decide. Those are local control issues, first and foremost; and secondarily because the initiative left regulation of time, place, and manner to the municipalities. He stated that transportation from retail facilities will most likely be covered by the industry on their own.

Ms. Becker stated that notice regarding and license action notifications (renewals, transferring, competing licenses) should be included in the comment letter.

Ms. Kiefer inquired if the COW on August 3rd could review the draft recommendation letter, discuss any changes, and direct staff to send letter.

Mr. Kiehl confirmed that the draft recommendation letter will go before the COW on August 3rd. The letter will be sent to the CBJ attorney and to Ms. Senn for posting for the public.

VI. COMMITTEE MEMBER COMMENTS AND QUESTIONS

Ms. Mead asked Mr. Kiehl if the Committee wanted information about private clubs for the next meeting.

Mr. Kiehl stated that he heard from one member of the public asking who they should discuss the issue of licensed premises for clubs. This may be set for August 13th or the meeting on August 27th.

Ms. Gladziszewski inquired about the local licensing issue, and if a recommendation had been made.
Mr. Kiehl stated that at the last meeting the City Attorney provided a memo. There was no objection from the Committee on proceeding with a local license. We did not take a formal action to recommend that yet however, but that is the summary of where the Committee left off.

Ms. Mead inquired if the Committee's intent was for a marijuana specific license or general business license.

Mr. Kiehl stated his thought was for a marijuana specific license.

Ms. White inquired if CBJ can limit to one specific license only. I would lean toward a specific business license.

Ms. Mead stated that a specific business license for wireless facilities sets out separate and different types of regulations, or CBJ can tweak existing Code language. A license specific to this industry must be unique and regulate differently than other businesses, similar to the Commercial Passenger Vehicle (CPV) license.

Ms. Mead inquired if the Committee’s intention is to develop a specified use chapter within the Code. If so, the business license would be tied to this specified use chapter.

Mr. Kiehl stated he prefers to discuss the policy questions in terms of restrictions needed. The CBJ departments have spoken on issues, and Finance Department will be talking about taxes at the next meeting. Mr. Kiehl requested the attorney’s recommendations on specific business license versus general business license for the next meeting packet.

**VII. ADJOURNMENT**

The meeting adjourned at 7:05pm.