I. ROLL CALL

Committee Members Present: Jesse Kiehl, Chairman, Mary Becker, Dennis Watson, Debbie White, Mike Satre, Maria Gladziszewski

Committee Members Absent: Bill Peters

Staff present: Kim Kiefer, City Manager; Amy Mead, Municipal Attorney; Deb Senn, Law Office Manager/Clerk; Beth McKibben, Planning Manager, CDD; Bob Bartholomew, Finance Director; Ed Mercer, Deputy Police Chief, JPD

II. APPROVAL OF AGENDA

Mr. Kiehl asked that the agenda be amended to include an update by Mr. Satre on Planning Commission actions from its regular meeting on Tuesday, September 22, 2015. Hearing no objection, the agenda was approved as amended.

III. APPROVAL OF MINUTES

Hearing no objection, the minutes of the August 27, 2015 Marijuana Committee meeting were approved.

IV. PUBLIC PARTICIPATION

Mitch Knottingham commented on the roll-out of recreational marijuana establishments, and his desire to do the roll-out well. He stated that Percy’s Liquor is owned by his parents, and that Percy’s Liquor sells marijuana paraphernalia. Tourists ask on a regular basis if they can buy marijuana at their store. He stated that common sense laws are needed for recreational marijuana, so our city and city coffers can flourish instead of the black market. He stated that last year the State of Colorado made $72 million in tax revenue from recreational marijuana, while alcohol pulled in $42 million in tax revenue. He stated that Juneau receives approximately 1 million tourists from cruise ships each year, and the tourists are potential customers seeking recreational marijuana. Mr. Knottingham stated that oil money is not dependable at this time. He stated that recreational marijuana is a great opportunity and that CBJ needs to take advantage of this opportunity. He stated that CBJ needs common sense
zoning laws that will not squeeze out cultivation, manufacturing, or distribution. He added that there is limited commercial property in Juneau, but residential and rural properties can be utilized for recreational marijuana establishments. He stated that legal cultivation needs to begin on November 1st, as cultivation through curing takes approximately six months. He asked the Committee to allow legal cultivation to begin on November 1st.

Ben Wilcox wished to discuss city licensing. He stated that the area where recreational marijuana businesses will be allowed is very small, and he asked who would lease to the potential businesses. He stated that potential lessors consulted with banks and business partners and determined they could not lease to potential businesses. The business opportunities are being narrowed down. The State of Alaska is implementing a long licensing process. He stated that CBJ already has plenty of ways to manage use provisions of the business, such as conditional use permits, and zoning laws. He stated the lottery system did not work in Washington - this has been proven. The people you want to succeed are the people that have been here for months and months. The people here want to see this business build and succeed and thrive. He asked the Committee to give the businesses a fair chance.

James Barrett commented on the CBJ compliance officer memo from Mr. Steedle. He stated his support and said it is a good idea to centralize communications with one primary person. He also spoke to the limited cultivation license from the State of Alaska, which is a 500 square foot limited grow operation with a license fee of $1,000. This type of grower could then sell cannabis to a broker with a different type of license. He asked the Committee to keep in mind the State's two types of licenses for different zones throughout Juneau.

V. AGENDA TOPICS

Mr. Satre provided an update on the Marijuana Committee’s recommendations to the Planning Committee. The PC sent the recommendations on to the Title 49 Committee. The recommendations came out with retail and waterfront commercial being eliminated. The Planning Commission addressed this matter again at its September 22nd meeting and addressed again under Unfinished Business. The PC reconsidered allowing retail and waterfront commercial which passed by unanimous consent. The PC’s recommendation to the Assembly is to allow retail and waterfront commercial.

There was a difference of opinion in allowing cultivation in D1 zoning cultivation outside the Urban Service Boundary, the motion to remove that from the proposed changes failed on a vote of 3 – 5. The Committee’s recommendations will come back to Assembly that cultivation would be allowed in Rural Reserve with a CUP, and also in D-1 lands outside of the Urban Service Boundary (portions of Thane, portions of Douglas, and the D-1 lands North of Lena). The PC will make a recommendation to the Assembly that it accept the proposed changes. This will be on Assembly agenda for Introduction after the Law Department has drafted legislation.

One minor change removed MU2 for a CUP. It initially allow for product manufacturing in MU2. The intent of MU2 is far more residential than MU. Product manufacturing is allowed in MU, but eliminated in MU2 (product manufacturing). The motion passed unanimously.

Mr. Satre recommended that the Committee and the public pay close attention to the minutes from both PC meetings regarding waterfront commercial and D1 zoning. Also, Mr. Satre recommended
that Assemblymembers pay particular attention to the public testimony and PC comments on D1 lands outside the Urban Service Boundary, as there were differing opinions. It will help the Assemblymembers as they consider this matter going forward.

Mr. Satre stated that Commissioner Voelckers noted it is hard to figure out which zoning areas to allow certain activities in without knowing what special use provisions might be associated with a CUP. Mr. Satre stated the Committee should move forward as quickly as possible so new businesses can plan and be prepared as well.

Ms. Gladziszewski stated she thought the PC’s recommendation would come back to the Committee before going on to Assembly. She asked if the Committee’s recommendations should come back for clarification for the Assembly since changes were made by the PC/Title 49 Committee, or if the recommendations should go forward to Assembly?

Mr. Satre stated he forgot one item earlier. A comment came up during public testimony at the PC level, but the PC declined to discuss it – no motions were made. There was a comment to allow retail in the convenience store overlay in residential districts. There was some thought that packaged marijuana product could be sold in convenience stores. Mr. Satre expects that this public testimony will follow to the Assembly in the future.

A. Memo re Technical Support for Startup of the Marijuana Industry, Deputy City Manager Rob Steedle to Marijuana Committee Chair, Jesse Kiehl

Kim Kiefer spoke to the memo from Mr. Steedle who was not present at this meeting. With this new business a central person would be needed to educate the public informing them of all necessary paperwork requirements, provide technical assistance through the permitting process, follow up with inspections, and ensure that the businesses are operating in compliance with permit rules. Ms. Kiefer stated that this is a new business and CBJ needs to assure that the startup of the new business is implemented as best as possible. This position may not need to be long term, it could be a short term position, but it’s an unknown at this time what the demand will be, or if it will take on the area of providing some level of licensing, also an unknown. Licensing may or may not be a duty depending on what State of Alaska does. The revenues from the new business will pay for at least half of the position. In the long term it can also be used to bring back some of the compliance needs that we have not been able to do because of the reduction in staff over the past few years.

Mr. Watson asked if this position would be a full time permanent position, or would the position split duties as done with compliance positions in the past.

Ms. Kiefer stated it would be a permanent full time position. The CBJ does not know what the demand will be so it is not possible to answer that question at this point in time.

Ms. Becker stated it may be a little premature to decide about the new position and it will depend on what the State decides.

Ms. White asked for comments from Ms. McKibben about the new position idea, since she knows her department better than anyone else. Ms. White stated that the actual building season starts in March or April, if the ground is thawed out, and she asked Ms. McKibben when do the applications come in.
Ms. McKibben stated that most of the building permits, land use, and planning long range – happen all year round. Bigger projects ideally would come in earlier in the year so they are ready to go when the building season starts. We don’t just do building permits, we do land use permits and long range planning, and that happens all year round.

Ms. White asked if there is a busier time of year.

Ms. McKibben stated that it always feels busy.

Mr. Kiehl asked what do application fees look like for CUPs, which is the PCs recommendation for all of the marijuana activity types.

Ms. McKibben stated fees range from $300 to thousands of dollars, depending on what the use might be. She was not sure where the marijuana establishments might fall in that scale. Commercial uses are based on the square footage of the use. There is a $50 sign permit fee and a $100 deposit that goes back to the business when the sign comes back.

Mr. Kiehl stated that the Assembly has been told in the past that the fees that the CBJ charges for CUPs and various development permits do not fully cover the CBJ staff time.

Ms. McKibben agreed, stating “absolutely not” – CBJ fees do not cover the CBJ staff time required to process permits.

Ms. McKibben stated that CUPs fees may not cost much based on schedule, but the amount of time spent could be huge. At some neighborhood meetings issues can be controversial and this adds to staff time, in addition to the staff research time and analysis.

Mr. Watson stated that from his experience on the PC that CBJ can anticipate extensive public comment, public questions, and public needs, which in turn will require more research by CBJ staff just to get to the PC level. The public is certainly entitled to this. There have been a number of similar projects we have had over the years which have turned testy, lengthy, and more expensive than most. Mr. Watson stated that his experience on the PC over the years with other CUPs would support his comments.

Mr. Kiehl stated it would be useful to the Committee to have a schedule of the likely CUP applications, perhaps by a couple of use types – small cultivator and larger grower – to assess what existing fees might look like. He asked if Ms. McKibben could generate an estimate of staff time that would be useful to inform the Committee for building recommendations.

Ms. McKibben stated she could come up with estimates.

Ms. Gladziszewski asked for clarification to confirm the duties of the new position.

Mr. Kiehl stated planners currently do the code enforcement work. The possibility of splitting those duties does exist.

Ms. Gladziszewski asked Mr. Kiehl what he was asking staff for.
Mr. Kiehl stated he wished to look at both pieces – whether to add staff to CDD, or not. The Committee could recommend adding staff at CDD, or not, or it could remain silent on the matter. He stated the Committee needs more information before it can address the matter.

Ms. McKibben stated that the CUP process can be framed very well for the Committee. The licensing piece, which she understood the new position would be doing, as well as the enforcement, CDD does not know what that looks like, it is an unknown at this time – so CDD cannot provide that information yet. Also, she stated that when the duties are performed for some time the person will become more efficient.

Mr. Satre stated that the current system of planners doing enforcement is sub-optimal at best. He stated that whether CBJ goes back to compliance officers or creating the new position, that is what should be done.

Ms. Gladziszewski stated that licensing will need compliance, and once restrictions and inspections are needed the Committee will know the workload for staff. A workload assessment is needed, and the regulations will help determine that.

Ms. Becker stated that the State will be doing licensing as well as what CBJ is able to do. It may not be a full responsibility for CBJ. She stated it could be less work than CBJ being totally responsible for processing new businesses from start to finish.

Ms. Mead stated that there is a provision in Title 17 that allows CBJ to have a Local Regulatory Authority (LRA), which this could potentially be. This would allow CBJ to receive one half of the fees, as mentioned in public testimony. This is only the case if CBJ has someone who is processing the State licenses. What that process is going to be has not been decided yet, so I don’t know what the level of involvement is, if it’s just a paper pusher, or if there are inspections associated with it. I have not seen any information at this point on how this interaction would work between CBJ and the State.

Mr. Kiehl stated that Ms. McKibben will provide more numbers as we move forward.

B. Special Use Provisions for Title 49, presented by Beth McKibben, Planning Manager, Community Development Department

See all presentation materials at: http://www.juneau.org/clerk/ASC/MARIJUANA/20150924MC.php

Ms. Mead stated that the idea for how the special use provisions will work has been discussed by CDD and Law. The starting point for that discussion was the direction received from the Committee thus far, and that the intent is to have a local license. The first part of the process is that businesses will require a CUP. Through the CUP permit process the PC is allowed to address certain things articulated in Code, such as screening, lighting, and traffic. There is a catch-all provision under the CUP process for other things the PC would like to impose that address issues such as neighborhood harmony, public health, safety, and welfare, and compliance with the Comprehensive Plan. If CBJ were to use the CUP permit process alone to impose conditions on this industry that the Committee is thinking of imposing, CBJ would lose the ability to impose a license. In order to have a business specific license, the license has to be tied to Code provisions that are specific to that industry only. Many businesses have conditional use permits, CBJ could not pull a license for failure to comply with
a CUP, but CBJ could pull the permit. CBJ has to take the same enforcement action on all businesses if the Code provision being relied upon applies to all businesses.

Mr. Kiehl stated he had asked staff to bring a laundry list of options to the Committee for consideration. He stated that the heft of what was provided reflects his request to staff not necessarily what staff recommends. Staff brought a broad spectrum so the Committee could review and say 'yes' or 'no' to the laundry list of options.

Ms. McKibben stated her actual memo dated September 24, 2015, consists of six pages. The additional pages (99 pages total) include examples requested by the Marijuana Committee.

Ms. McKibben reviewed her PowerPoint presentation entitled, Special Use Provisions for Marijuana Establishments.

Ms. Mead stated anyone with a financial interest in a marijuana business has to be part of the license (in regards to collective / communal growers outside of residence).

Ms. McKibben stated that CDD also recommends not allowing growing in storage units / boat condos, where persons do not reside.

Mr. Watson asked if CBJ will have the option to change the buffers later on, and if the buffer is not in place initially will the initial licensees be grandfathered in? For example, if CBJ does not impose a buffer and later decides a buffer is needed.

Ms. Mead stated that the licensee who is not required initially to have a buffer is grandfathered in. All new licensees would be required to have a buffer however.

Mr. Kiehl asked about the limited hours of transport reference in Ms. McKibben’s presentation, and why those hours of transport are good limitations.

Ms. McKibben stated the transport hours are ordinary business hours. Limiting time of operations gives way to limits on transport. She stated Ms. McNally did most of the research on this topic, and offered to bring back more information on why.

Mr. Kiehl stated he would like more information on the creation of transport hours, if only for his own benefit.

Mr. Kiehl asked for clarification of use of flammable gases, that they be prohibited except in a licensed processing facility – and prohibited for personal use.

Ms. McKibben stated that the personal use of combustibles is what has impacted the safety of residents the most.

Ms. Gladziszewski asked about other communities that have local regulations, and she inquired about recordkeeping and access to business records - can CBJ include a requirement for its access to business records?

Ms. McKibben stated that some regulations cannot be addressed in Title 49. She deferred this question to the Law Department.
Ms. Mead stated that recordkeeping is important for the sales tax tracking. She stated that if it is determined useful to provide for CBJ access to the inventory system, if the SOA does not respond to our request for access to records, this would be something to add to the CBJ Sales Tax Code. When the decision is made to impose sales tax, whether it is an excise tax or sales tax, then that is when recordkeeping requirements would be discussed and included.

Mr. Kiehl stated that the Committee is preparing the conversation regarding taxation for a future agenda. He said he would welcome Committee members’ recommendations for proposals to put forward for that agenda.

Ms. Gladziszewski inquired about other issues for the Committee to consider, in addition to land use matters.

Ms. McKibben stated that there is the CUP and the land use issues. Those issues specific to marijuana are odor control and screening. We also went through the Special Use regulations, and they are the regulations that are specific to receiving the license. A person would receive their CUP permit, and then they would apply for their license. The new position discussed this evening would be responsible for taking that license and going through the application then license checklist(s) of requirements, and then follow through with the enforcement.

Ms. Mead stated that this was why she included her February 23rd memo in this packet. The CBJ is limited under State law to regulating time, place and manner (which are land use and zoning regulations). The only other areas CBJ has to look at are taxation, harbors, airport, and personnel codes.

Mr. Kiehl stated the Committee could ask staff for a draft ordinance for the next meeting, or the Committee can check ‘yes’ or ‘no’ to the laundry list items.

Ms. White stated that she would prefer the Committee commit a serious work session to address each issue one at a time.

Ms. Gladziszewski asked for clarification regarding the ‘laundry list’.

Mr. Kiehl stated that included the issues in the memo from lengthy memo from CDD, the early memo from Law, and over the meetings a number of other municipality ordinances mostly from Colorado and Washington. He stated it is time to put pen to paper. The Committee has not written or asked staff to draft, but it is time to do so.

Mr. Watson stated he had been down the road with the cell tower ordinance, noise ordinance, etc. He requested that the Law Department bring a draft ordinance with its best thoughts. The Committee could then review and make a list. He stated time is of the essence.

Ms. White stated she deferred to Mr. Watson’s years of experience on the Planning Commission.

Ms. Gladziszewski stated that the memo starts the ordinance. There are also other ordinances to glean ideas from.

Mr. Becker inquired if the State was far enough along for Law to draft the ordinance.
Mr. Kiehl stated that the State will send out final version for final public comment within 1 ½ weeks. The State Marijuana Control Board did accept all of its changes. The Committee will see the State's revised version out for comment before this Committee acts. Depending on the date of adoption for the State regulations, the State's final regulations will likely be available before the Assembly takes its final action.

Ms. Gladziszewski stated the State must accept applications by February 24th and they are required to issue licenses within 90 days, or May 2016.

Ms. Mead stated that the State regulations must be completed by November 24th. The CBJ cannot allow the sale of marijuana by a marijuana establishment at this time.

Mr. Satre stated said to allow cultivation in certain zones and use CUP process. He asked could somebody purchase Rural Reserve land and with a CUP plant seeds and start growing?

Ms. Mead said the only marijuana allowed now is for personal use. The TPU was addressed first due to the State’s application process - they had to identify where the growers would operate, and in order to do that they needed to know where CBJ would allow businesses to operate.

Ms. Gladziszewski asked if businesses had to wait until May 2016 to begin commercial operations and cultivation.

Ms. Mead stated that the State could issue the licenses any time after February 24th. They may issue the licenses quicker than the 90 days.

Mr. Kiehl: City Attorneys memo from September 22 – any other comments? _ already reviewed.

C. Planning Commission Testimony from September 22, 2015

Testimony was an informational item only. There were no questions or comments.

VI. COMMITTEE MEMBER COMMENTS AND QUESTIONS

Mr. Watson inquired when the Marijuana Committee would complete its work, and if the Committee would stay active beyond February 24th.

Mr. Kiehl stated his hope is that by December the Committee will inform the Mayor that the Committee has done all they can do, and that the Committee will be disbanded. The Mayor did not set a hard deadline for the life of the Committee.

Ms. White stated she was happy to get started on ordinance.

Ms. Becker inquired if Ms. Mead would bring the first draft of an ordinance to the Committee.

Mr. Kiehl stated that the request was for staff to bring the Committee a draft ordinance for the Committee to cull and add through the amendment process.
Becker inquired if Ms. Mead would draft the ordinance after the State’s public comment period.

Ms. Mead stated she plans to get a framework in place. She said she did not need to wait on the licensing process piece. She would then finish shortly after the revised State regulations go out for public comment. This will give the Committee a draft for discussion. After the State regulations are finalized any further changes can be made to the CBJ ordinance.

Mr. Kiehl stated his understanding was that the State Marijuana Control Board finished its first work through of its regulations today. The State will post its regulations for public comment around October 5, 2015 for 30 days, then the State MCB will rework again.

Ms. Gladziszewski asked if the Committee was agreeable with the land use recommendations going straight to the Assembly. There was no objection from the Committee.

Mr. Kiehl asked the public to review legislation from other municipalities and the CBJ draft ordinance. He requested that the public, staff, and Committee members bring any comments or questions forward to the Committee.

VII. SUPPLEMENTAL MATERIALS

A. Attorney Memo dated September 22, 2015 (with attachments) re Land Use Regulations and Follow Up to February 23, 2015 Memo

B. CDD PowerPoint presentation dated September 24, 2015 re Special Use Provisions for Marijuana Establishments

See all presentation materials at: http://www.juneau.org/clerk/ASC/MARIJUANA/20150924MC.php

VIII. ADJOURNMENT

There being no further business to come before the committee, the meeting adjourned at 7:30 p.m.

Submitted by Deb Senn, Law Office Manager/Clerk