I. ROLL CALL

Committee Members Present: Mike Satre, Vice Chair, Dennis Watson, Debbie White, Mary Becker, Bill Peters, Jesse Kiehl (telephonic participation), Maria Gladziszewski

Committee Members Absent: None

Staff Present: Amy Mead, Municipal Attorney, Deb Senn, Clerk/Law Office Manager, Clinton Singleterary, Sales Tax Administrator, Sven Pearson, Deputy Fire Marshal, CCFR, Bob Bartholomew, Director, Finance, Kim Kiefer, Manager, Rob Steedle, Deputy Manager, Chrissy McNally, Planner II, CDD

II. APPROVAL OF AGENDA

The agenda was approved as submitted.

III. APPROVAL OF MINUTES

Motion by Ms. White to approve the draft minutes.

Hearing no objection, the draft minutes of the September 24, 2015 Marijuana Committee meeting and the October 8, 2015 Marijuana Committee were approved.

IV. PUBLIC PARTICIPATION

Benjamin Wilcox – Mr. Wilcox discussed numbers on estimated sales tax revenue from sales of marijuana and medical marijuana establishments. Mr. Wilcox stated that the estimated marijuana retail sales are very low as referenced by CBJ Sales Tax. The amount of marijuana sales and consumption in Washington is much higher than what is referenced, as is reflected in Washington records for legitimate businesses (not black market businesses). He asked the Committee to not restrict new marijuana businesses.
Adam Burke – Mr. Burke spoke to the intent of the law. Mr. Burke spoke about being attacked when coming out of the closet as a marijuana user, even for medical marijuana use. He stated his concerns about regulations that may restrict and push users to Craig’s List and the black market to obtain marijuana products.

IV. AGENDA TOPICS

A. November / December Marijuana Committee Meeting Date Scheduling Discussion

Discussion ensued between Committee members and staff regarding the best Marijuana Committee meeting dates. Topics at future meetings will include Title 49, revenue and taxation.

The November and December meeting dates are scheduled for November 12th and December 10th.

B. Marijuana Revenue Estimates, prepared by CBJ Sales Tax

Clinton Singletary, Sales Tax Administrator, spoke to the Marijuana Revenue Estimates in the meeting packet, and the supplemental material regarding the Discussion Points handout.

Pertaining to the Discussion Points handout, Mr. Singletary stated the information was specific to retail sales, not medical marijuana. He stated that he was not familiar with medical marijuana. Medical marijuana in Juneau, if allowed, would likely fall under the sales tax exemption for medical items.

Mr. Singletary reviewed population comparisons between Washington and Juneau. He reviewed his calculations and how he arrived at figures based on number of retail recreational marijuana licenses (172 reported). The number of licenses per population is: one recreational marijuana license per 41,000 people. The annual average dollar amount spent per person on recreational marijuana in Washington is calculated at $460. Based on the 33,000 population of Juneau, Mr. Singletary estimated $15.3 Million in recreational sales for an annual average for Juneau.

Mr. Singletary stated that the tax rates of 8%, 10% and 15% provided on the spreadsheet in the packet include the current 5% tax rate for Juneau local tax.

Mr. Singletary stated that the above calculation is only one way of estimating — many variables would come into play. Juneau is said to have a higher user ratio, and Juneau has a tourist factor which is much different than what is found in Washington, and also Juneau has outlying areas that visit Juneau.

Ms. White inquired about the 8% alcohol tax - is it 8% total, or 8% plus 5% for 13% total. It was stated that 8% total was the current tax.
Ms. Mead stated that CBJ was grandfathered in after the Legislature prohibited municipalities from imposing an extra alcohol tax. If CBJ wanted a sales tax over and above our general sales tax rate, CBJ could do that. CBJ would need to make a finding about the impacts from the business that justified the higher tax rate. She stated that CBJ could do this only as long as the legislature does not do something similar as they did with alcohol.

Discussion continued regarding the CBJ Sales Tax spreadsheet for Marijuana Revenue Estimates, discussion points, and methodology.

Mr. Satre asked staff what they will need from the Committee to move forward on tax.

Ms. Mead asked if the Committee wants to do something other than impose the CBJ general sales tax. If so, will there be an additional sales tax or an excise tax in addition to the State imposed excise tax. She stated this is the decision that needs to be made.

Ms. Gladziszewski stated that a license fee is also on the table if CBJ licenses marijuana establishments.

Mr. Kiehl stated that he looks at this from a slightly different angle, that being, what impact the tax has on the retail price of marijuana products. After studying the Colorado and Washington reports, and by Googling, the licensed retail price of marijuana is roughly at $300 - $320 per ounce. Mr. Kiehl is using this measure since the State’s excise tax is based on the dried marijuana flower per ounce. The excise tax is set in the initiative at $50. He stated his goal is to recognize the increased costs that the CBJ will have, and the social costs although limited there will be some. He stated it makes sense to address those costs with a tax increase, similar to what CBJ does with alcohol. He stated he is wary of raising the tax rate too high and pushing buyers to the black market. He recommended the Committee put forward an 8% retail tax on marijuana products (5% current CBJ sales tax, plus 3% additional tax).

Ms. White stated that in Juneau smaller quantities of marijuana are sold at a higher rate, $25 per gram; $120 - $125 per quarter ounce; $350 - $400 per ounce. She stated that she has family in Seattle area, and you find places that state they are marijuana shops when they are not actually licensed. Once police become aware of the illegal shops, they move out. She stated that she is comfortable with an 8% tax on marijuana products, the same as alcohol.

Ms. Gladziszewski agreed that she does not want to make marijuana more expensive than the black market street price. She stated that the market will bear an 8% sales tax.

Mr. Satre asked for concurrence from the Committee on an 8% sales tax on marijuana products. He stated that ultimately this is an Assembly policy discussion.

Ms. Mead stated that a new sales tax would need to go to a vote. She stated that the Committee could ask that an ordinance be drafted that reflects the will of the body (Committee), and that ordinance could be brought to the Assembly for its consideration.
Mr. Bartholomew inquired about the option of having the 5% base sales tax and a 3% excise tax at Assembly level that would not require a public vote.

Ms. Mead stated that the 5% is a given, and a 3% excise would be more limited on who it can be imposed upon. For example, the State imposes its excise tax on cultivators selling to the retail stores and the product manufacturers. CBJ could do something similar that would not need to go to a vote; a 3% sales tax must go to a vote.

Discussion ensued about imposing a flat rate excise tax, one that can be raised by CBJ as needed; or a retail sales tax that requires a vote.

Mr. Satre stated that CBJ would be taxing at the point of sale at the products highest value. He stated that the Committee needed more information from staff on what the excise tax would look like at the CBJ level before the Committee can make an ordinance recommendation to the Assembly. Finance and Law will provide additional information to the Committee on an excise tax at the November 12th Committee meeting.

Mr. Kiehl stated that he did not object to obtaining more information from staff on the excise tax. He stated that the Committee will find tremendous complexity to the excise tax question.

Ms. Mead stated the tax question (how to tax) is more of a policy decision. She stated it depends on who the CBJ is trying to impose the tax upon, and what CBJ is taxing for. If it is the Committee and Assembly’s decision to do an excise tax that can happen, if a sales tax is requested that can also happen. Ms. Mead stated that there is no a legal impediment, that it is a policy call.

C. Draft Marijuana Land Use Ordinance

Mr. Satre asked staff for any presentation or discussion points.

Ms. McNally indicated she did not have a presentation prepared on the draft ordinance – she had provided a memo in the Committee’s packet. She deferred to the Law Department.

Ms. Mead stated that there was some direction given by the Committee at the last meeting. This was to be incorporated into a new draft ordinance. There were follow-up questions that the Committee asked of CDD, which were to be answered at the last meeting.

Mr. Satre referred to the CDD October 10th CDD memo, and asked Ms. McNally if there was anything specific that she wished to cover.

Ms. McNally stated that she wanted to provide the answers to the Committee’s questions from the September 24th meeting, and did so within the memo in the Committee’s packet.

Mr. Kiehl inquired if the suggestion for buffers on limited cultivation facilities had been refined since first presented to the Committee. He asked if the buffer is sufficient to prevent limited cultivation
facilities from clustering on the same piece of property – to prevent people from getting limited licenses and really operating as large scale commercial grows.

Ms. McNally stated yes, that is correct.

Ms. Mead stated that the decision on licensing needs to be made before Law can finish the ordinance, and asked the Committee to keep this in mind.

Mr. Satre asked if discussion could start there – and asked what would be most helpful for Law.

Ms. Mead asked if the Committee had heard the draft ordinance at all – trying to recall what had gone before.

Mr. Satre said the Committee had the draft ordinance, and it was the same as what the Committee has before it now. He said the Committee needed more “meat” in the draft ordinance so it could say yes or no to some portions at the October 10th meeting, and that meeting was cancelled due to lack of quorum. He stated that the Table of Permissible Uses (CBJ Ordinance No. 2015-39) is moving through the process, but he was concerned about those persons who want to plan for grow operations and acquire land to do that. He asked if the Land Use regulations needed to be place for businesses to plan.

Ms. Mead stated that commercial marijuana establishments are not legal until after the business gets a license. She stated that there needs to be more policy direction given to move this forward and fill in the ordinance substance. Number one – does the Committee want a marijuana business license, if it does, then the current draft ordinance format will work. If the Committee wants a general business license then Law will take out all of the pieces relating to a marijuana business license.

Mr. Satre stated that a marijuana business license would provide CBJ with more control over facilities than CBJ would have with a standard business license – whether it was failure to pay taxes or failure to comply the CUP provisions, that license could be revoked. Enforcement would be less complex than with a standard business license.

Ms. Mead stated that if it’s a general business license then we could attach things or require compliance with sales tax and anything that is in Title 49. If it’s a marijuana business license only it’s going to be centered on the time, place, and manner provisions that are going to be in Title 49. She stated the process is very similar and it depends on what it is the Committee is trying to regulate. The end result, with respect to the Title 49 provisions, is the same.

Ms. Gladziszewski stated that currently when a liquor store fails to pay sales tax, the CBJ waits to protest to the State when the store’s license renewal comes due.

Ms. Mead stated that CBJ does have enforcement mechanisms in place for sales tax collection. CBJ does not need a marijuana license in order to enforce the Title 49 provisions. She stated that
some of the same enforcement tools used with a license can be added to the Code - CBJ can fine, can impose criminal penalties, and can provide for injunctive relief which is already in Title 49.

Ms. Gladziszewski stated a license would make it easier for compliance - that it’s a visual tangible thing. She stated that a license is easier to understand as a business owner.

Ms. White stated that the State does require that people have a business license in order to do business within the State of Alaska. If CBJ requires one particular type of business to have a business license that it will require every single business operating within the CBJ to have a business license. She stated that as a business owner she would be heavily opposed to this.

Ms. Gladziszewski stated she is in favor of a marijuana license at this point.

Mr. Watson stated CBJ does not need a separate business license for marijuana. The State’s business license and the CBJ Code enforcement will be sufficient.

Mike Satre stated that if the Committee chooses not require a marijuana license the ordinance will be shortened to exclude those sections. He inquired about the special use provisions for permitting.

Ms. Mead stated that the ordinance will contain conditions imposed on all of the establishments, it is not efficient to include in the CUP process, and also CBJ would have to amend the CUP to address some of these things. If the Committee decides against the marijuana license, then this Committee will need to decide hours of operation, signage, and more direction for language in the special use chapter to include enforcement for civil and criminal penalties, and injunctive relief in civil court. The license process is a little faster, but similar.

Mr. Kiehl stated that enforcing CUP conditions has been lacking. The opportunity of the marijuana license would give flexibility. He stated later on CBJ could relax when there is a responsible business community acting responsibly.

Mr. Peters stated he is not in favor of a separate license for marijuana businesses. He stated that it would create an extra level of government and would be burdensome.

Ms. Becker stated a marijuana license would be easier to pull until corrections were made versus court action.

Ms. Gladziszewski stated that marijuana is different – it is illegal federally, it is new to Alaska and Juneau, and there are people who feel CBJ should not have legalized recreational marijuana at all. She stated marijuana is different than other businesses, there are federal restrictions.

Ms. Mead agreed with Ms. Gladziszewski. She stated she is not concerned that CBJ would single out one business – that it would survive a challenge. Under the proposed State regulation, there is a protest mechanism in place to pull a state license for failure to comply with local law. The CBJ would ask the State to pull a license and there would be a hearing.
Ms. Kiefer stated there are currently 4,000 businesses in CBJ.

Ms. Gladziszewski asked how to proceed with the ordinance draft.

Ms. Mead stated that the Committee cannot fill in the blanks in the draft ordinance until it reviews the State’s proposed regulations. She stated much of the language in the CBJ draft ordinance is now covered in the State’s proposed regulations. The Committee will need to decide if it is satisfied with how the State regulations are written, or if CBJ wants to duplicate what the State is doing, or if CBJ wants to impose something different. The draft ordinance cannot be finished until the Committee reviews the State proposed regulations.

Mr. Satre said the Committee needs to come back and address the licensing topic. The Committee certainly has diverse opinions on that topic.

1. **Community Development Department Memo**

   See discussion above under Agenda Item C. Draft Marijuana Land Use Ordinance.

2. **Marijuana Best Practices Public Health Policy Wish List, provided by the National Council on Alcohol and Drug Dependence (NCADD).**

   Mr. Kiehl asked the Committee to please review the Marijuana Best Practices Public Health Policy Wish List. He stated that if there are items from this Policy Wish List to add to the CBJ draft ordinance, the time is now to bring those items before the Committee and staff for discussion on or before the November 12th Committee meeting.

D. **State of Alaska Marijuana Control Board Proposed Regulations**

Ms. Mead stated that she has reviewed the State’s proposed regulations and has a few issues to highlight for the Committee, those issues include:

1. The buffers – the State is recommending a 500 foot buffer from schools, recreation or youth centers, any building where religious services are regularly conducted, or a correctional facility.
2. Some of the proposed special use provisions in CBJ draft ordinance will also be required by the State. For example, the State is requiring security plan measures. The State is also proposing a waste disposal plan.
3. The State has amended the notice provision. This was one of the CBJ comments forwarded to the Marijuana Control Board (MCB). The applicant was required to provide notice to local government upon filing an application, and now the MCB must provide notice to local government as well for license renewals and transfers.
4. When a local government protests a new or renewal application the Board will deny application unless it finds the local government is being arbitrary or capricious. If the local government determines the establishment is violating state law, the regulations,
or a condition the MCB has imposed on the licensee, then the local government can provide notice to the MCB and then a hearing process will begin. Ms. Mead stated that it is not clear if the MCB’s intent is that marijuana establishments’ compliance with local laws is somehow subsumed. This needs to be clarified in the State regulations.

5. The MCB is proposing that stores may not operate between 5:00am and 8:00am.

6. There is no consumption on licensed premises allowed.

7. There is a restriction on signage that conflicts with CBJ code.

8. The dual licenses will be allowed in certain situations – a cultivator may apply for a product manufacturing license or a retail license. This is for large grow operations only, not limited cultivation.

9. Inspections – who can inspect. The inspection of premises is provided for in regulation for any officer charged with the enforcement of the chapter. There is a provision for the MCB to request the local building code officials or fire code officials to inspect as well. This seems to conflict – CBJ needs to ask the MCB to clarify on inspection authority.

10. There is a waste disposal plan being required – how product must be disposed of, such as by grinding to make unusable.

11. Inspection of the inventory tracking system is still not allowed by local government. It is allowed by peace officers, but this does not extend to local, but could be provided for in the CBJ Code.

12. Marijuana clubs are prohibited as being proposed by the regulations. The MCB must derive it’s authority from AS17 – it is not clear if the MCB has this authority.

Ms. Mead stated that the only item not addressed by the State regulations is the odor and ventilation plan. Also, the hours of operation follow what the State currently uses for alcohol, so CBJ will likely want to impose its own hours of operation.

Mr. Satre asked if staff could edit the ordinance using the proposed State regulations that are available.

Ms. Mead asked if the Committee wants to do something different than the State - impose something more than what the State is proposing, or be duplicative of the State regulations?

Mr. Kiehl requested review of the waste requirements from the State regulations.

Ms. Mead stated that waste disposal requirements at 3 AAC 3O6.740 requires storage and disposal in accordance with any other law, including local laws. Waste must be rendered unusable for any purpose for which it was grown or produced. She stated the regulations also specify where the waste can be disposed of and all of this must be input into the inventory tracking system. There is also a 3-day notice requirement to the MCB before disposal.

Ms. Mead stated that the waste plan and security plan are mentioned in the draft ordinance – both of which are also provided for in the State regulations. Depending on the Committee’s satisfaction with State regulations it may or may not need to amend the draft ordinance on those topics.

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Mr. Satre stated that the Committee needs to do its homework and compare CBJ draft ordinance to State proposed regulations and be ready for that conversation at the next Marijuana Committee meeting on November 12th. He stated that the Committee also will finalize the discussion on the local licensing for marijuana establishments as well.

Ms. Mead stated that CDD and Law worked together on the draft ordinance amending Title 49 before the State regulations were available. She stated that if there are other subject areas to cover in the draft ordinance the Committee should bring those forward to Law on or before the next Committee meeting. If there are sections of the special use chapter within the draft ordinance that are now moot because they are covered by State regulations, please advise Law and that language will be removed. Also, CDD can compose the odor and ventilation plan.

Ms. McNally stated that CDD will put together an odor and ventilation plan for the next meeting.

Ms. Mead stated that staff will need to hear if the Committee has any further comments on State’s proposed regulations to pass along to the MCB. Those comments are due on or before November 11, 2015.

Mr. Kiehl stated the comments for the MCB should include:

1) How are violations of local law handled?
2) Request clarity and specificity on CBJ’s ability to inspect by building code official and civil authorities, not only peace officers.
3) Local government’s ability to see the marijuana inventory tracking system. Mr. Singletary indicated at a previous meeting that this would be a very valuable tool.
4) The question of clubs should be left to local governments to regulate.

Mr. Kiehl suggested that CBJ get very specific and that we ask law to draft precise amendment language on those issues for the Assembly to recommend to the MCB. It will not then be a general broad comment, it is a four specific fixes for those four specific issues.

Mr. Satre asked Ms. Mead to draft comments on the State’s proposed regulations for the Assembly.

Ms. Mead stated that the question of Local Regulatory Authority (LRA) needs to be decided sooner rather than later, as the February 2016 deadline does impact the LRA.

Mr. Satre stated that at the next meeting the Committee must decide the question of LRA.

Ms. Mead stated that licensing and the LRA are separate issues. The LRA only entwines with Title 49 license issues in that it would be the same person. The question is whether or not CBJ wants to appoint or have an LRA who would be processing applications (the State applications) and receiving half of the application fees from the applicants - this is what Title 17 provides for.
Ms. Gladziszewski requested more information on the LRA, as the Committee is struggling with this topic - why would the CBJ have a LRA?

Ms. Mead stated CBJ would receive the half of the fees. She stated that if the State fails to act, the LRA would be the mechanism for getting a registration. If the State failed to accept, process, or approve the applications under the timeline provided for in state law, an LRA could step in. If the State is timely then the benefit would be receiving half of the application fees. The CBJ would receive the applications and would have knowledge and more ability for oversight. The CBJ would process the applications using the State’s process, and would have more notice. The MCB would still hear the protests and take the official registration action, but CBJ would process the applications.

Mr. Kiehl stated that an LRA would make sense if the State had only bare-bones regulations and the CBJ did a local set of regulations which were much more comprehensive. An LRA would then be efficient; however the State regulations are comprehensive. An LRA would also make sense if the State dragged its feet or the legislature defunded the agency then the CBJ would need to start issuing licenses on its behalf of the State in order to comply with the initiative.

Mr. Kiehl asked the Law Department if the MCB does not issue licenses, could CBJ copy and paste the regulations into the CBJ Code, and issue licenses to become an LRA, or does CBJ need to have this in place ahead of time if that bad thing happens?

Ms. Mead stated it is more a question of the State not being administratively ready to begin processing applications. The State law does not state how CBJ would create that position or appoint someone – it is somewhat unclear. She stated CBJ would not need to adopt the State regulations. The CBJ would need to have an LRA and let the State know that by either providing for that in Code or hiring someone and declaring them to be the LRA person.

V. COMMITTEE MEMBER COMMENTS AND QUESTIONS

Mr. Satre stated before next meeting the Committee members should evaluate the State regulations and Title 49 and send their comments or questions to Ms. Mead or Ms. McNally.

Dennis Watson stated that at the last Assembly meeting an Assemblymember stated that CDD did not have a definition of “Neighborhood” – he asked if that was correct.

Rob Steedle stated there is a definition of “Neighborhood” it is just not useful for this purpose and CDD is working on that now.
VI. SUPPLEMENTAL MATERIALS

A. Marijuana Revenue Estimates Discussion Points, prepared by CBJ Sales Tax

VII. ADJOURNMENT

The meeting was adjourned at 7:43pm

The draft October 22, 2015 Marijuana Committee meeting minutes submitted by: Deb Senn, Clerk/Law Officer Manager