

**ASSEMBLY STANDING COMMITTEE
COMMITTEE OF THE WHOLE**

April 8, 2019, 6:00 PM.

Assembly Chambers - Municipal Building

MINUTES

I. ROLL CALL

Deputy Mayor Maria Gladziszewski called the meeting to order at 6:00 p.m. in the Assembly Chambers.

Assemblymembers Present: Mary Becker (telephonic), Rob Edwardson, Maria Gladziszewski, Loren Jones, Carole Triem, Michelle Hale, Wade Bryson, Alicia Hughes-Skandijs, and Mayor Beth Weldon.

Assemblymembers Absent: None.

Staff present: City Manager Rorie Watt, City Attorney Robert Palmer, Deputy Manager Mila Cosgrove, Municipal Clerk Beth McEwen, Fire Chief Rich Etheridge, Assistant Fire Chief Chad Cameron, Finance Director Bob Bartholomew, Incoming Finance Director Jeff Rogers, Chief Housing Officer Scott Ciambor, Housing/Homelessness Coordinator Irene Gallion, Port Director Carl Uchytel, Code Compliance Officer Nate Watts

II. APPROVAL OF AGENDA

Hearing no objection, the agenda was approved as presented.

III. APPROVAL OF MINUTES

A. December 10, 2018 Assembly Committee of the Whole Minutes

Hearing no objection, the minutes of the December 10, 2018 Committee of the Whole meeting were approved.

Ms. Hale said in reading the minutes, she was reminded of the disestablishment of the Affordable Housing Commission and she asked if their members had been sent thank you letters for their service. Ms. McEwen said she was not sure if those had been sent but she will check with the Deputy Clerk to make sure that happened.

IV. AGENDA TOPICS

A. TBMP Update - Verbal Report from Kirby Day

Kirby Day gave a report about the Tourism Best Management Practices (TBMP) program. Mr. Day distributed three handouts regarding the program.

He started with a brief history of how TBMP came about: they started with approximately 20 guidelines and they are now up to over 90. He recounted the work they have done since its inception in the 1990's which included loans for the float planes to switch from the noisy engines to a lower noise engine. He also noted how their TBMP model is now being expanded to other communities such as Icy Strait Point, Seward, Ketchikan and communities in other states such as Maine and

Florida as well as other countries like Sweden and Norway. Southeast Conference is wanting to partner with them to develop a TBMP model packet. The keys to the program are support from CBJ and the buy in from the tour operators in trying to do a better job in providing a meaningful service.

Mr. Day noted that the new guidelines for this season will be out by May 1 and they will be posted on the website www.TBMP.info and at all the libraries. The hotline will also be starting as of May 1.

This year, they are looking at approximately \$200 Million dollars generated by tourism revenues and it is a great economic driver and provides jobs for a wide variety of residents. He noted that they are partnering with JEDC to hold a community meeting on April 23 at the Elizabeth Peratrovich Hall at 5pm. The meeting will provide information on the upcoming tourism season as well as have a facilitated session to gather feedback from Juneau citizens on their concerns relating to impacts and capacity concerns and to gather ideas for strategies to maximize the benefit to Juneau while minimizing the impacts to the community.

Discussion took place regarding the concerns surrounding cruise ship emissions and the role of DEC in regulating air quality standards. That in turn led to discussions regarding the forecast for when electrified buses might transition into the industry. Gastineau Guiding looked into the possibility of bringing electric buses to Juneau but due to the \$800,000+ price tag and the long wait for manufacturing/delivery of the buses, Mr. Day said it is not likely to happen until the industry can get a better return on investment (ROI). In 2001, CBJ became the first place in the world to provide cruise ships with shorepower through the electrical hookups at the Princess Dock.

Mr. Watt told the Assembly that in response to their goal to figure out how to allow for additional shorepower plug ins, the draft Marine Passenger Fee (MPF) list has \$250,000 included for additional study of this topic.

Mr. Day ended his presentation with providing the TBMP hotline number and email. When they do receive comments, if a return number or email is provided, they respond within 3 days. **TBMP Hotline #907-586-6774** and email: **Hotline@traveljuneau.com**.

B. Sleep Off Center Discussion

Ms. Cosgrove and Chief Etheridge gave an overview of the proposal to shift the sleep off center duties from the Bartlett Regional Hospital Rainforest Recovery Center (RRC) program to something that would be managed by Capital City Fire/Rescue (CCFR).

Chief Etheridge explained that this would result in 6 FTE's that they would be adding rather than burden the current staff with the additional duties. He said they would hope to co-locate the program at St. Vincent De Paul's alongside the Navigator program and tie it into the CARES (Community Assistance Response and Emergency Services) program. This is a high risk population and medical needs do flare up with this population.

In looking at the statistics, on average approximately 24 people are using the sleep off services per month while 48 are being transported to their homes or another safe place. During the last month, 14 individuals were transported to the warming shelter, while only 6 people have recently gone on to Bartlett for evaluation and last month. They did have one person go to Lemon Creek Correctional Center for a 12-hour hold.

The mission is to provide emergency services under the direction of a physician to people inebriated by drugs and alcohol. The department-sponsored physician writes standing orders of what they do and how they do it. If they say A, then you do B; if something falls outside of that, CCFR calls the Emergency Room physician to get guidance for that. He said as they build the medical component of what they do, it has direct oversight through a physician.

The Assembly asked a wide variety of questions regarding the proposal to change this program as well as the current procedures and statistics of persons served by the current program. BRH Behavioral Health Officer Bradley Grigg was also present and answered many of the questions pertaining to the current program at RRC, its staffing levels, usage, and statistics. Assemblymembers expressed their concerns relating to the safety of the individuals being served due to their medical needs as well as any potential liabilities that shifting the program from RRC to CCFR might open them to.

Mr. Watt said that since this is such a big topic and the Assembly has a wide range of questions, he didn't anticipate the Assembly making any decisions at this meeting. He suggested they refer some of their questions to staff who will work through them, in conjunction with the Homelessness Coalition and those results would be brought back to the Assembly at a future meeting. Mr. Watt also commented on the warming shelter experience. When they first began the warming shelter idea 3 years ago, the response from the Homeless Coalition was tepid and they wanted to see CBJ concentrate its resources on supportive housing. The Assembly did that through the Housing First Phase I and Phase II and that brings up the question as to whether the Assembly wants to continue with the warming shelter next winter.

Mayor Weldon asked that staff provide more detailed budget numbers when they do bring back additional information on this proposal.

MOTION by Mayor Weldon for the Assembly to authorize the Manager to pursue moving the Sleep Off program from BRH to CCFR and to prepare budget documents to effectuate that change and asked that it come back to the COW for further review.

Mr. Jones objected and said he adamantly opposed this proposal. He said it is the wrong way to go and it absolves BRH of their medical responsibility to this community. It does not follow Title 47 which is how you treat intoxicated and incapacitated persons. He said they funded a study last year by the Juneau Community Foundation on mental health and opiate services. He said he told them what they would find but he has not yet seen the report. He said he thinks this process has been flawed from the beginning and he objected to this going any further.

Mr. Edwardson said was uncomfortable with this proposal as CCFR is about response and he questions if this would affect their readiness to respond to other emergencies.

Other members expressed their wish to have the questions explored and answered.

ROLL CALL VOTE

Ayes: Weldon, Becker, Hale, Hughes-Skandijs, Triem, and Gladziszewski

Nays: Jones, Bryson, and Edwardson

Motion passed 6:3

The committee then recessed for a 10-minute break.

C. Moderate Drought Impacts - Staff Verbal Report

Mr. Watt provided a verbal report on this topic. He reported that 2018 was "abnormally dry" which is a technical term and we are presently in a moderate drought which the Weather Service predicts to continue.

Mr. Watt provided statistics from Snettisham that last year, we were at 82% of normal precipitation as of the first quarter of the year. The first quarter for this year, we are at 68% so there has been a lot less rain at Snettisham this year compared to last. He said we have also had warmer temperatures which has resulted in less power consumption for people to move resistant heat so the load has been down and some interrupt-able customers have been interrupted. He said that the lakes at Snettisham are now both back up above the rule curve which is the amount of water necessary for AEL&P to not

take people off the interrupt-able service and they are actively monitoring that. Mr. Watt said the drinking water systems have not been affected by the low rainfall. We get drinking water from two locations 1) Gold Creek to ground water source, and 2) Salmon Creek that comes out of the reservoir behind the Salmon Creek dam. Both are sources that the power company uses so they both monitor those levels.

Chief Etheridge said that Joel Curtis, who works for NOAA/Weather forecasting and has served with us on the LEPC, goes around the country to all the major wildfires and does the weather forecasting for those. He saw the conditions in Juneau going into the troubling direction and gave the Fire Department a heads up about this. In Mr. Curtis' 12 years in Juneau, he has never seen the conditions projected to become as dry as they are and he warned them that we will start seeing a lot of the fuels that typically aren't dry enough to burn will start to burn. Fires that do happen, will burn faster than they have in the past. Mr. Etheridge said we typically do not get a lot of wild land fires but that there were two significant fires last year. One was at "Lucky Me" and was a couple of acres and there was another fire that was almost 60 acres at Berner's Bay last year. It is just far enough outside the roaded area that people aren't noticing it. We typically see a handful of open burning fires get out of control and our typical wildland fire is the dry grasses. Once those dry grasses are replaced with green grass, the risk goes down some but they were warned that this will be a busy year for them.

Chief Etheridge said that prompted him to meet with the Forest Service and they are short staffed this year having only 2 staff members in Juneau with 1 fire engine and they are sharing that engine with three communities: Juneau, Haines, and Skagway. They will travel to wherever the fire danger is the most. He said to keep ahead of it, they will be trying to do as much public education that they can, especially letting people know it is a bad day to burn. CCFR will be working closely with the Weather Service and when they issue red flag warnings, CCFR will be potentially suspending open burning permits if they see a protracted length of time. They were told to be prepared for an unusual condition in Southeast.

Chief Etheridge then answered a number of questions from Assembly members and also discussed the various methods for getting the word out to the public.

Ms. Triem commented that all these issues would be good to tackle in a CBJ Climate Change Adaptation Plan.

Mr. Bryson asked if the Juneau Hydro project at Sweetheart Lake had been online, would any of the interruptable customers not been interrupted or would there have been adequate power supply through those drought conditions. Mr. Watt responded that he didn't know how much power that project would supply but he would expect that it would be in excess of the need.

D. On Site Consumption Regulations - Information Only

City Attorney Robert Palmer referred the members to his memo in the packet on pages 14 and 15. He explained that the current CBJ Code 42.20.230 prohibits all forms of marijuana consumption in public, including in retail stores. He explained that there are two main questions for the Assembly to decide upon and that it would take a majority vote of the Assembly. The Assembly could change the consumption of marijuana by smoking or vaping in public places but it would take a majority vote to do so and the memo outlines the specific issues that would have to be addressed relating to that process.

The second option would be if the Assembly chose to repeal its marijuana consumption prohibitions on edibles in public and that too would take a majority of Assembly members voting in favor of that to change the current laws.

Ms. Gladziszewski said the Assembly's Marijuana Committee discussed these topics at length at the time the citizens' initiative passed and they helped craft the current CBJ laws on this and the Assembly has not really discussed this since then.

Ms. Hughes-Skandijs asked if there were at least five members who wanted to tease that out, either for edibles to be opened up or to distinguish marijuana consumption from tobacco smoking, what the process would be.

Mr. Palmer said that if the COW wants to undertake that project, they could ask him to draft the ordinance. He said the drafting of the ordinance is the relatively straightforward piece, while the harder piece will be the rational basis for public support behind it. He said that depending on which item, if it is just smoking or if it is non-smoking consumptive edibles, he said the edibles will be easier and the smoking would be harder.

Ms. Gladziszewski asked Mr. Palmer to explain the language pertaining to "the rational basis for public support" and where that language comes from. Mr. Palmer said that in order to pass an ordinance that would pass legal review, it would have to be rationally based; there has to be a rational basis for it. He said that the other piece of that is what the Assembly does everyday and that is figuring out what the community wants. If five of them says they want an ordinance drafted, he can do that. The more complex piece is on the smoking. If they want to repeal that prohibition for smoking, that will need some rational basis that he doesn't have. He doesn't have any data or facts that explains that marijuana smoking is different than tobacco smoking or even if it is similar to tobacco smoking. He would need facts that would provide the "rational basis" piece that he would need to support an ordinance.

Ms. Triem said she was not on the Marijuana Committee but she did present to the committee and her recommendation at the time was to not limit artificially the number of stores. She said she has the same "light touch" approach, at least as it applies to the edibles. She stated that Mr. Palmer noted in his memo that the definition for that would need to be narrow and she asked if there was a definition in state statute. Mr. Palmer said he has not looked specifically but he could look if that is a desire of the body.

Members then discussed the difference between smoking marijuana vs. tobacco. They also asked about allowing smoking in private clubs or smoking rooms. Mr. Palmer explained the history of the current CBJ ordinance prohibiting tobacco smoking and also the subsequent legal challenge by the Eagles that went all the way to the Alaska Supreme Court and was decided in favor of CBJ. That second hand smoke prohibition for private clubs for tobacco has been and remains in code and the only thing that was changed was to clarify last fall that marijuana smoking was also prohibited. It was already in there in a few places and this provision under Title 42.20.230 specifically described marijuana smoking. There wasn't a lot that was substantively done to marijuana smoking but it clarified a few aspects of it, especially related to vaping.

Ms. Hale said her question relates to Ms. Triem's comment regarding taking a light touch. Ms. Hale's question is "Why would they prohibit on site consumption?" She asked if there are benefits, such as tax benefits, and what are the negative consequences for consumption at a private shop?

Ms. Gladziszewski said that at the time this was at the CBJ Marijuana Committee meetings, there was no discussion about that topic because it was prohibited by the state at that time. She said that the committee wanted to preserve the city's right to, in a future time if it was ever allowed, to do what Ms. Hale just said because of all the thousands of cruise ship passengers were among them. She said it was not unanimous in the committee but the majority of the committee wanted to preserve the local option to do that. When the state law makers were debating this issue, the city went so far as to send a letter that said "We want to preserve our local option to allow clubs for consumption." They did not do a lengthy analysis at the time because it wasn't ripe at the time. No one wanted to harm the smoking ordinance to do it but allow for it to be brought up for discussion at a future date.

Mr. Bryson said that he wanted to point out what is currently happening. We don't have a rule right now for onsite consumption. He said that during his day job, one of his locations is located directly connected to a marijuana distribution facility. He said they have immediate smokers who are buying it, walking out of the store, ripping the package open and smoking under the awnings in the area of

2nd and Seward Street. He has had to kick people out of the area. It is obvious the immediate Juneau smokers are needing a place to smoke. He said the other component is marijuana tourism. People are specifically taking a trip to Alaska because of the tourism and the legalization of marijuana. As soon as it became legal, tourism operators were receiving reservations because that was what people wanted to do and they were struggling to find a place for them to legally do it. He said that if they give people a legal place to smoke, it makes it more legal and gets them off the streets, out of the hotels, and not on the ships. He commented that edibles are not safer than smoking marijuana. It takes hours for edibles to kick in and people were having marijuana overdoses because they weren't able to feel the effects right away.

Additional discussion took place regarding the state regulations, definitions, and how that compares to CBJ's current code and our Clean Air Act.

Mayor Weldon said that she disagreed with Mr. Bryson that having smoking in enclosed spaces would be safer as that was the reasoning behind the Clean Air Act in part to protect the employees from second hand smoke. She also asked if JPD can determine if someone is under the influence of marijuana and do they have a level that is legal. If you allow consumption, people are going to drive impaired.

Mr. Watt said he asked that question of the police chief earlier that day and the chief's response was that it is an evolving field of inquiry in law enforcement. They don't have simple tools like they do for alcohol to make it easy to determine when someone is above or below the limit. They face this issue, not just with marijuana but for all controlled substances. They continue to train and gain expertise in determining when someone is not fit to drive vehicles. It is not fixed at all. He said he anticipates technology and law enforcement measures will evolve a lot in the next few years.

Mr. Palmer said they do prosecute drug DUIs that are not alcohol related. He said the two to three tools they use on those are driving behavior (weaving, speeding erratically, stopping erratically, etc...) that type of behavior is a tell tale sign that something is going on, not necessarily a drug or alcohol caused behavior but a sign that something is going on. Secondly, are the interactions with the driver when the officer comes to the window, the odors might indicate certain things or the driver may tell the officer outright. He said they can sometimes rely on blood samples that will give some indication. There is not a strict number for marijuana in the same way there is for blood alcohol content numbers. The typical drug prosecution involves driver behavior and some sort of officer observed information.

Ms. Gladziszewski asked if there were five members who wished to pursue the possibility of looking at #1 allowing onsite consumption of edibles or #2 the possibility of allowing onsite marijuana smoking.

MOTION by Ms. Hale that the assembly pursue exploration of on site consumption of edibles.

Amendment by Mr. Edwardson to include smoking.

Mayor Weldon objected to the amendment. Members expressed wishes to vote on the questions separately. Mr. Edwardson withdrew his amendment.

Mr. Jones said that the regulations at the state level remain the same for edibles. They have to be done at a licensed retail facility. They can't be giving out brownies on the street. It can only be in a separate section of a retail shop and as Mr. Bryson said, edibles take 1-2 hours to take effect. Most marijuana retail businesses do not want someone coming into their shop, walking into a separate room, eating the brownie and sitting there for two hours waiting to get high. He said they don't expect there will be a lot of people looking to consume edibles. It won't be like sitting in a coffee shop drinking coffee waiting to get high. He said there are 7 retailers in CBJ and two of them are too small to have enough space to do edibles and of those five, he doubted if any would apply. He said someone could purchase a gummy candy, eat it at Marine Park and no one could tell the difference of that from something you purchased in any other store. In respect to that, he felt the Law Department would be doing a lot of work and effort on this without much result.

Ms. Triem said she will be voting yes on this and compared it to the social aspect of sitting in a bar and consuming alcohol. She said that five businesses in Juneau is a lot and the Assembly should not be limiting their business and if they want to invest in onsite consumption we should be encouraging them to expand their business opportunities.

Mr. Edwardson said he is old enough to think you wouldn't sit in a coffee shop and drink coffee or pay money to play video games. He said that some folks made a go of those business models and he agreed with Ms. Triem that the Assembly doesn't know what people will do and what business model they might come up with and how they will overcome the obstacles. He will be voting in favor of this.

Ms. Hughes-Skandijs agreed that the city should be not limiting things and should allow for businesses to have the option to have a space where someone could enjoy their edibles legally in the same way someone can go and enjoy a glass of wine.

Mr. Bryson said that the onsite consumption issue is not about the edibles, it is about the ability to smoke with their buddies. He said if the question is only limited to edibles, he would vote no. The infrastructure to get just edibles, it would not be a worthwhile business venture. They want to allow people to smoke on their property.

Ms. Hale said that there is no requirement for someone to sit there and wait until they get high. She said she has a fundamental opposition to setting up a legal structure and then asking them to break the law where they would be taking a lozenge or other edible and ingesting it down at Marine Park because we don't provide any other legal place for them to ingest it.

Mr. Jones said the other legal place that has always been legal has been a person's home. There have been many discussions at CBJ and at the state that a person's home is a safe place to consume and their home is legal. He said that if you look at the law, it says "no consumption in public." He said that a retail store that is open to the public is a public place. He said that was one of the reasons he voted no for the onsite consumption because somehow the state's attorney has said that if AMCO gives an endorsement that "retail" is no longer a public place. He said he thinks that is legally wrong and there are many issues to that and he suggested they may want to look at the regulations. In a retail store, were you allowed onsite consumption of edibles or inhalation, they can't sell alcohol, they can't sell tobacco, they may not allow tobacco or tobacco products to be consumed and you can't offer other beverages that are non-alcoholic or those kinds of things. He said it is not a very inviting atmosphere to go and sit.

Ms. Becker said from the very beginning, she has been opposed to breaking the federal law for one thing and opposed to legalizing and putting our stamp of approval on something that needs to be kept out of the hands of children. She said she will be voting no on the edibles question and if the smoking question also comes up, she will be adamantly voting no.

Ms. Gladziszewski said she will be voting yes on this. She said she does not know what the current onsite regulations say. It may be unattractive as Mr. Jones said but she wants to pursue it, analyze it and see if it is viable and she doesn't want to proclaim whether some business owner might decide it is viable for them or not. She wants to give people who come here on ships in the hundreds of thousands, a legal place to do what is legal.

Mr. Jones said he hopes this will not become a TBMP condition in terms of how we do it. He said he doubts that Juneau wants to become the marijuana vacation place.

ROLL CALL VOTE on the main motion to pursue the exploration of onsite consumption of edibles.

Ayes: Hale, Edwardson, Bryson, Hughes-Skandijs, Triem, Weldon and Gladziszewski

Nays: Jones, Becker

Motion passed 7:2

MOTION by Ms. Hale that the Assembly explore onsite marijuana smoking and said she will be

voting against it.

Mayor Weldon said she would be objecting as it violates the Clean Air Act which was made to protect employees, not necessarily the people who were smoking.

Mr. Edwardson said the people the Clean Air Act was meant to protect work in places where it was not set up specifically for the purposes to smoke cigarettes and only cigarettes. He said he thinks this is different fundamentally. He said that he also thinks it is incorrect to assume that people who consume marijuana and people who consume tobacco products are similarly situated. They are doing it for different reasons and there is a different history behind it and there will be a different use pattern. He said it is legal and he thinks people should have a legal place to do it.

Mr. Bryson spoke in favor of the motion. There are hundreds of thousands of people coming and if we give them a place to legally purchase and smoke marijuana, we have another industry that we strengthen and support. It is being done safely in a controlled environment. He said if we provide safe, secure places downtown, it will once again be a nice place to visit if people are not smoking marijuana on the streets as they are now.

Mr. Jones said the regulations do not allow for any consumption by employees. The regulations call for a separate area for employees from the area where the smoking is taking place. He said to allow for this would be to unravel the Clean Air Act in CBJ and that is what would happen by passing this motion.

Ms. Triem said she will vote in favor of the motion and while she may not eventually vote in favor of a final ordinance changing the current Clean Air Act, she would like to explore what the City Attorney brings back and then it can be ultimately decided from there.

Ms. Hughes-Skandijs said she feels similar to Ms. Triem and while she may not support the final ordinance, she would like to see more information about this and would like see if there is some way to allow the residents of the borough to have a choice and a place to do things legally similar to the way alcohol is allowed in a bar.

Mayor Weldon reminded the body that the City Attorney said they will need to have a rational argument to distinguish marijuana from tobacco.

ROLL CALL VOTE on the main motion to pursue the exploration of onsite smoking of marijuana.

Ayes: Edwardson, Bryson, Hughes-Skandijs, Triem, and Gladziszewski

Nays: Hale, Jones, Becker, Weldon

Motion passed 5:4

V. ADJOURNMENT

There being no further business to come before the body, the meeting was adjourned at 8:45 p.m.

*Respectfully submitted,
Beth McEwen, MMC
Municipal Clerk*