



**Marijuana Control Board
Meeting Minutes
March 7, 2017
Third Judicial District
Snowden Training Center
820 W 4th Avenue
Anchorage, Alaska**

Board Members Present:

Peter Mlynarik, Chair, Public Safety Member
Mark Springer, Vice Chair, Rural Member
Brandon Emmett, Industry Member
Nick Miller, Industry Member
Loren Jones, Public Health Member

Staff Members Present:

Sara Chambers, Acting Director
Sarah Oates, Program Coordinator
Jedediah Smith, Local Government Specialist

Legal Counsel Present:

Harriet Milks, Assistant Attorney General

● **ADMINISTRATION**

A. Call to Order

1:00pm

B. Approval of the Agenda

1:00pm

*Mark Springer moves to approve the agenda.
Brandon Emmett seconds the motion.
None opposed.*

● **DIRECTOR'S BRIEFING**

1:01pm

Sara Chambers introduces the new AMCO Director, Erika McConnell, who will begin on March 20, 2017, provides additional staff updates, updates the Board on introduced legislation, reminds the Board that a legislative audit is currently underway, and informs the Board that there will be an FBI audit this April.

Mark Springer asks if it would be possible to extract data from METRC so that the Board has an idea of what kind of supply is going to be out there.

The other Board members nod in agreement.

Sara Chambers states that she will look into providing some high-level gross data at each Board meeting.

● **BOARD GOVERNANCE**

A. Declarations of Conflict of Interest

1:08pm

Harriet Milks requests that the Board members each update any potential conflicts on the record.

Nick Miller, Mark Springer, Brandon Emmett, and Loren Jones each state that there are no changes.

Peter Mlynarik states that his only change is that he is now on the Board of Directors for the Alaska Association of the Chiefs of Police, which has nothing to do with commercial marijuana.

● **PUBLIC TESTIMONY**

1:12pm

Cary Carrigan, Executive Director for the Alaska Marijuana Industry Association (AMIA), provides testimony regarding support from the AMIA for additional funding for the AMCO, and voices confusion about seeds.

Phillip Izon provides testimony regarding difficulties with handling seeds, and he requests that the Board provide some clarification.

Colin Peacock, applicant for an outdoor cultivation facility, provides testimony regarding the backlog of applications and requests that the Board hold an additional meeting in May.

Jason Brandeis, attorney, provides testimony regarding the need for additional meetings in consideration of the summer tourism season. He additionally voices concerns about the availability of personal information of applicants on the AMCO website.

Jim Thornton, applicant, requests that an additional meeting be held in May.

Bill Stevens, applicant for an outdoor cultivation facility, voices concerns about the backlog of applications and requests that the Board consider that outdoor grows have a seasonal aspect to them, as delays would delay a business by a whole year. He respectfully requests that his license be moved up the line, if possible.

Jana Weltzin, attorney for marijuana companies, provides testimony regarding unforeseen AMCO staff burdens, the frequency of Board meetings, backlogs in license reviews, tax revenue, and supply and demand issues leading to a prominent black market presence. She additionally requests that the Board considering holding another meeting before July (in May).

Dan Ferguson, pending applicant, echoes sentiments regarding Board assistance toward getting businesses operating.

Dr. Matthew Peterson requests that meetings be moved up much more quickly, and he provides testimony regarding CBD oil being used by patients. He voices comments about medical needs for marijuana and marijuana extracts.

Mike Stoltz provides testimony regarding law enforcement in the Mat-Su Borough, and he voices concerns regarding regulation of a federally-illegal substance.

Phil Schneider, applicant, states that the staff are responsive and helpful, and he voices the desperate need for more staff. He requests that an additional meeting be added this spring.

Cade Inscho voices concern about the lack of a meeting before July.

Holly Sheldon Lee voices concerns about issuing a marijuana license in Talkeetna and requests that the Board make [an unspecified] change to 3 AAC 306.010.

Beth Valentine voices objection to an application for High Expeditions, along with concerns about marijuana being present on the streets in Talkeetna.

Connie Twig, Talkeetna resident, voices concerns about having a marijuana establishment on Main Street.

Ronda Lambert, licensee, requests that the Board take her personal information offline.

Steve Bush, Talkeetna resident, voices objection regarding an application on Main Street and states that there is an application that is in violation of 3 AAC 306.010.

● **EXECUTIVE SESSION PER AS 44.62.310(c)(1)**

2:00pm

Sara Chambers requests that staff, including the attorney, remain for executive session.

Mark Springer moves to go into executive session under the authority of AS 44.62.320(c)(1) and that staff and the attorney be present.

Brandon Emmett seconds the motion.

None opposed.

Mark Springer moves to go out of executive session.

2:44pm

Brandon Emmett seconds the motion.

None opposed.

Peter Mlynarik states that he has directed the staff through the Director on how to handle labeling. He requests that licensees pay attention to detail on their applications and states that if certain labels, warnings, and that if things are in quotes, then they are verbatim.

● **UPDATE ON PREROLLED JOINTS ISSUE**

2:46pm

Nick Miller states that based upon 3 AAC 306.345 and 470, cultivators and retail stores are allowed to package marijuana for sale to a consumer. He states that it should be clarified that nothing can be mixed or included with that marijuana when it is put into the preroll. If it is, it would qualify as a product and would have to come before the Board for approval from a manufacturer.

Brandon Emmett states that he agrees, and that pre-rolling is just a form of packaging.

Sara Chambers states that she and the staff support what Nick Miller stated, and she adds that if a facility plans to package their products in this way, that it needs to be in the operating plan.

Brandon Emmett asks if the existing businesses would need to amend their operating plans if they would want to pre-roll joints.

Sarah Oates states that at the last Board meeting, certain members had expressed concern that they had never heard that cultivators and retailers would be packaging in this manner. She states that page 15 of 19 on Form MJ-01 could be a place where applicants could indicate that they are intending to do pre-rolling as a form of packaging, if the Board wishes. She requests guidance from the Board on exactly what it wants the staff to do.

Peter Mlynarik states that for people who already have licenses, they shouldn't have to go back through the process, but they can inform staff when they renew.

The Board members agree (verbally and by nodding) that going forward, applicants should have in their operating plans under packaging that they are going to be pre-rolling.

● **DISCUSSION OF ONSITE CONSUMPTION**

2:57pm

Peter Mlynarik states that there were seven licensees that were approved that had said that they were also planning on doing onsite consumption. He states that there are no regulations currently for onsite consumption. The Stoney Moose and Rainforest Cannabis were clearly approved on the record at the previous meeting without the onsite consumption piece.

Brandon Emmett asks staff if the Board approved onsite consumption at five businesses but not at the two.

Sara Chambers states that it is her understanding that the Board had stated on the record through a continuum of time that it was not intending to approve onsite consumption until clarifying regulations were adopted, and that at the last meeting, the regulations package was dropped. She adds that the Board did not, at that time, pull out the onsite consumption section for those five licenses and say that they were specifically approved without that piece, but that the Board has a clear record of stating that the Board has not yet approved of onsite. She states that this has caused some confusion for those five licenses, and that staff is bringing back to the Board the applications for those seven, any correspondence, and meeting minutes. She asks that the Board provide clarity on those five licenses and that they discuss their intentions going forward.

Loren Jones states that he thinks that the staff's interpretation of what the Board can do is wrong. He states that he feels that he had acted along with most of the other members in coming up with a set of regulations, or at least an attempt, and that there was the clear interpretation that onsite was not allowed until those rules were in place. He adds that he was always acting with the understanding that without those regulations, they were not approving onsite consumption. He states that this Board cannot approve something without a proper set of rules.

Brandon Emmett states that it is his interpretation that the Board did approve those five licenses, as is, and did not approve the other two.

*Brandon Emmett moves to reconsider 3 AAC 306.365 onsite consumption endorsement.
No second.*

Peter Mlynarik states that it will be discussed later in the meeting, and that this time is just to address these five licenses. He adds that he did not think that onsite consumption was approved for any of the licenses, and that the last two speaks for the rest of them, as there are no regulations around it.

Mark Springer states that when he voted to approve these licenses, it was not with the intention of approving onsite consumption. He additionally states that his impression was that the question asked “Do you intend to apply later for an onsite consumption endorsement?”, and not to incorporate onsite consumption into the approved application and license. He adds that his view is that he did not vote to approve onsite consumption for these licenses.

Sara Chambers reads MJ-03, Section 2, and states that she wants to make sure that the Board is very clear in its intent, as the regulations currently allow the Board to approve it.

Mark Springer moves that the Board has not approved onsite consumption for any licensee.

Loren Jones seconds the motion.

Nick Miller asks for clarification.

Mark Springer clarifies that in the approval of licenses where applicants have checked “Yes” where they say that they have planned to request approval, the Board has not approved onsite consumption.

Nick Miller states that he was a late-comer to this Board, so he does not know when these five applications were approved, but that for the applications that he’s voted on, there was a clear intent not to improve onsite consumption until the regulations are done.

Motion carries, 4-1 (Brandon Emmett votes No).

Sara Chambers states that the staff will improve the wording on the application.

● REGULATIONS

A. Proposed Regulations Projects

3:16pm

Brandon Emmett moves to reconsider 3 AAC 306.365 onsite consumption in its entirety.

Nick Miller seconds the motion.

Brandon Emmett clarifies that basically the motion is to bring back that project.

Loren Jones states that he doesn’t think that the motion is proper, as it was to reconsider an action that was already taken when no notice of reconsideration was given.

Harriet Milks states that the motion needs to be restated so that he is making a motion to initiate a new project.

Brandon Emmett moves to start a new regulations project on the onsite consumption endorsement issue.

Nick Miller seconds the motion.

Brandon Emmett passes out a document and states that he would like to resurrect all of the former language that used to be 3 AAC 306.365, but for what used to be 3 AAC

306.365(b)(4)(D), he would also like to add some language that would state “Except where prohibited by local ordinance, regulation, or other law, a retail marijuana establishment that is issued an onsite consumption endorsement under this section is authorized to sell marijuana and marijuana products for consumption, the licensed premises separated by a secure door, and containing a separate ventilation system.”

Loren Jones states that the Board should discuss the motion on the floor, which is to open a regulations project, and not to amend an open regulations project.

The Board members discuss the proposed project.

Brandon Emmett states that the regs project would have all of the language in it that the previous regs project had, with the addition of what he had outlined in that paragraph (Tab 15 in its entirety from the February 2 meeting).

Mark Springer requests that the Board take a ten-minute break.

Loren Jones states that the motion before them is to start a regulation project.

BREAK

3:26pm

MEETING RESUMES

3:39pm

Brandon Emmett states that after receiving guidance from the Director, he would like to amend or reword his motion to be to take all of the language from Tab 15 that’s labeled, in its entirety, in addition to the language provided in the document provided.

Nick Miller seconds the motion.

The Board members discuss the amendment to the motion.

Mark Springer moves to amend to have the motion just read that we open a regulations project on onsite consumption.

Brandon Emmett seconds the motion.

Loren Jones states that since he doesn’t know what he’s voting on, he’s voting No.

Motion to amend the original motion carries, 4-1 (Loren Jones votes No).

Motion to open a regulations project on onsite consumption carries, 4-1 (Loren Jones votes No).

Mark Springer asks the Director to refer Mr. Emmett’s references in his document to DHSS and the State Chief Medical Officer.

The Board members and staff discuss who and how language will be drafted for this project.

Mark Springer states that he believes that if past practice holds, that if a Board member were to suggest language to staff, that it would be acceptable.

Peter Mlynarik states that anyone [of the Board members] who wants to have a say in this should present his draft to the staff, and then the Board will come back and look at them and work with that.

None opposed.

Sara Chambers states that if everyone would send their general insights to her, that it's what the staff would need to bring back a draft and the backup documentation that was submitted by the Board members.

The Board members agree to have proposals to the staff by the deadline for the April meeting.

B. Update on Open Regulations Projects

4:11pm

Sara Chambers informs the Board that Jed Smith is the regulations specialist now and provides updates on open regulations projects.

C. New Regulations for Board Consideration

1. Amendments to regulations regarding transport of marijuana 4:14pm

Mark Springer moves to approve this language to be put out for public comment.

Nick Miller seconds the motion.

Motion carries unanimously.

2. Amendments to regulations regarding qualifications for marijuana handler permits and conditions for revocation 4:18pm

Sara Chambers states that there were supplemental documents provided to the Board members this morning with highlighted sections of Peter Mlynarik's draft.

Mark Springer moves to approve the amendments to 3 AAC 306.700 for public comment with the staff comments [on the document provided].

Loren Jones seconds the motion.

The Board members discuss the proposed language.

Motion to approve 3 AAC 306.700 for public comment carries, 3-2 (Nick Miller and Brandon Emmett vote No).

Mark Springer moves to approve 3 AAC 306.831 draft for public comment.

Brandon Emmett seconds the motion.

Mark Springer moves to amend to strike "licensee" and insert "marijuana handler permit holder".

Brandon Emmett seconds the motion.

Nick Miller states that the shorter language he had come up with reads, "The board may suspend or revoke a marijuana handler permit issued under this chapter, refuse to renew a permit, or issue a civil fine, if the holder of the permit is convicted of a violation of AS 17.38."

The Board members discuss the proposed language.

Motion to amend 3 AAC 306.831(a)(1) to strike “licensee” and replace with “marijuana handler permit holder” carries unanimously.

Original motion to approve the 3 AAC 306.831 draft for public comment, as amended, carries unanimously.

*Brandon Emmett moves to have the Board adopt a resolution **4:43pm** to request that the Department of Revenue restructure the marijuana taxes and amend it to reduce the tax on flower sold to product manufacturers and concentrate manufacturers to \$15 per ounce.*

Nick Miller seconds the motion.

The Board members discuss the proposed resolution.

Sara Chambers states that because the fees are in statute, that it would have to be a legislative request during the next session.

Mark Springer states that the language should include reference to the economic benefit to cultivators and to the State.

Motion carries, 3-2 (Loren Jones and Peter Mlynarik vote No).

● **MARIJUANA MAILBOX**

4:50pm

All correspondence received in the marijuana@alaska.gov inbox from January 14, 2017 through March 3, 2017.

No comments or action.

● **BOARD COMMENTS & NEXT BOARD MEETING DATE**

4:51pm

Sara Chambers states that if it is the Board’s desire to have staff prioritize cultivation applications, in consideration of public comments received, that the Board should give some direction to the director to have staff do so. She additionally states that the administration has requested three new positions in the budget and asks if the Board would be interested in supporting her recommendation that the staff receive two long-term non-permanent positions. She asks the Board if they want to consider a May meeting, talks about the Denali meeting costs, and addresses concerns raised during public testimony regarding personal information on website.

Sarah Oates states that links were added by the former director to the AMCO website to the public notice information for each application due to the large number of public records requests that were being received by staff. She adds that because all of the information is discoverable through a public records request, this was done in the interest of most efficiently utilizing staff’s time. She also states that the Department of Revenue’s tax regulations, specifically 15 AAC 61.100(a)(2) specifically addresses how different parts of the plant will be taxed at a lower rate, so it seems as if the recommendation in Brandon Emmett’s resolution could be addressed by regulation.

Brandon Emmett states that he thinks that it is of utmost importance that the Board have a May meeting.

Peter Mlynarik asks how many licenses would be ready.

Sarah Oates states that it's very hard to say at this point, as the staff will be down to one fully-trained examiner for reviewing applications. She adds that she does think it could be very beneficial to have another meeting in May since July seems to be late in the tourism/summer season.

Nick Miller states that he would support having a meeting in May, but that he does not support changing the order in which people are served.

Peter Mlynarik states that they can see where they are at with applications at the April meeting to decide what they're going to do in May.

Mark Springer moves that the Board supports the administration's request for three additional staff members for the AMCO office.

Nick Miller seconds the motion.

Peter Mlynarik clarifies that the Board is supporting the long-term non-perm staff in addition to the ones in the budget requests.

None opposed.

Brandon Emmett moves to have a two-day meeting from April 4 – April 5.

Nick Miller seconds the motion.

None opposed.

● **ADJOURN**

5:05pm

Mark Springer moves to adjourn.

Brandon Emmett seconds the motion.

None opposed.

Minutes prepared by:



Sarah D. Oates
Program Coordinator