



**Marijuana Control Board
Meeting Minutes
July 12, 2017
Fourth Judicial District
DEC Meeting Room
610 University Avenue
Fairbanks, Alaska**

Board Members present:

Mark Springer
Nicholas Miller
Peter Mlynarik, Chair
Brandon Emmett
Loren Jones

AMCO staff present:

Erika McConnell, director
Harriet Milks, AMCO attorney
Jedediah Smith, local government specialist

● **ADMINISTRATION**

Chairman Peter Mlynarik called the meeting to order at 9 am.

A. Approval of Agenda

*Mark Springer moves to approve the agenda. Brandon Emmett seconds.
Springer proposes to move Tab 10 to follow Tab 7.
Agenda approved with change 5-0.*

B. Approval of the March 7, 2017 Meeting Minutes

*Springer moves to approve. Emmett seconds.
Motion carries 5-0.*

C. Approval of the April 4-5, 2017 Meeting Minutes

*Springer moves to approve. Emmett seconds.
Motion carries 5-0.*

D. Approval of the May 15, 2017 Meeting Minutes

Springer moves to approve. Emmett seconds.

Motion carries 5-0.

E. Approval of the May 24, 2017 Meeting Minutes

Springer moves to approve. Emmett seconds.

Motion carries 5-0.

● **DIRECTOR BRIEFING**

A. Director's Report

Director McConnell: AMCO lost two administrative staff to other positions in state service. Program coordinator still out on leave. Two licensing staff are new. Purchase of new audio equipment for better recording. Renewal application clarification: board wants to see licensees with NOV's in the previous year, not over the entire license history. If renewal is not filed in a timely manner, licenses expire on August 31. But it is not clear when licenses expire if renewal is filed in a timely manner. Propose to the board, show expiration date is August 31. Board directed advisory on multiple buildings as licensed premises.

Conflict of regulations. Board must approve changes to licensed premises in one section, and the director in another. Propose board delegate authority in 3 AAC 306.015(c). If comfortable with delegation on NOV's and temporarily approved changes to operating plans, chair can sign delegated order.

Emmett: These delegated orders are acceptable. No objection.

Chair Mlynarik: Statutory requirement for fingerprints?

McConnell: Cards are submitted to DPS, not kept on file at AMCO. AMCO cannot simply send a name to DPS for a background check.

Milks: On renewal application, licensee is required to disclose whether there has been a change in criminal history. It is in the statute that all renewals require a background check.

Emmett: some business owners are perplexed by having to submit background check every year, when alcohol only requires every five.

Jones: We need to have some legislative change on this requirement. It is an added expense.

Springer: An annual background check, especially since saying under penalty of perjury, that this is too high a bar.

Mlynarik: Investigator should have the ability to run a local check through APSIN. Investigators should be doing that on these renewals. Three years is reasonable.

Springer moves MCB request legislature amend AS17.38.200(a) to change the requirement for background checks. Emmett seconds. Motion carries 5-0.

McConnell: Board can retain authority on licensed premises changes, or delegate to director.

Jones: If they are going to have multiple buildings, space between them needs to be restricted space.

McConnell: when the board delegates authority to me, doesn't mean I have to make a decision. When I see a conflict, I will bring to board.

Springer moves to delegate authority of 3 AAC 306.015(c) to approve licensed premises changes to director. Emmett seconds.

Motion carries 5-0.

McConnell: One licensed premises, but separate restricted access areas. Need guidance from the board. Under what circumstances would a licensee need areas accessible to the public?

Springer: We issued licenses to cultivators who are using their residences. One of the questions I ask is 'do you have any kids.' We instruct them when they are going to move their product to create a temporary restricted access area.

Milks: You have to look at regulations 306.710(a)--technical definition. Look at maybe changing that, or expanding that definition. That definition then applies to 306.430.

Emmett: The moving of plants between buildings qualifies as operations. Our definition of operations may have to be adjusted. If someone is moving plants from one building to another, we may have to redefine what an operation is. As I interpret it, plants in one building and one in another building, you can't move back and forth. This needs to be clarified.

McConnell: video surveillance needs to be addressed. Perhaps the board would like to appoint a committee to work out what needs to be worked out?

Brandon Emmett and Loren Jones will serve on committee to discuss the interpretation and possibly identify changes to regulations.

● PUBLIC TESTIMONY

9:35am

Cary Carrigan, AMIA: when addressing the legislature, push for funding. Staffing shortages and turnover are slowing the process, so push for funding with legislature. Database exists for those who have initiated applications. Kind of like the gold rush. That list is huge. I know all those aren't all active. That list should be culled down to see how many are actively pursuing licenses. It appears there is a tidal wave of licenses that create this fear of too many licenses.

Jana Weltzin: Suggest posting recordings of minutes. It is helpful for licensees to understand the context under which decisions are made. Usually, written public comment is under its own special tab. The regulations give the board authority to redact proprietary information submitted. I was hoping you could delegate authority to director to redact trade secrets.

Sarah Williams: Limited cultivation family informed me they were lights on May 11, haven't had first harvest yet. Now they have to pay \$1000 renewal. Seems very unfair. The renewal process should be a year to year process. PFD background check could be done via a screenshot.

Brian Coyle, Steep Hill Testing Lab: Proficiency testing is most accurate way to test for quality, safety and ability to produce quality data. We took the initiative to sign up for Emerald Testing Panels for microbials and potency. Encourage board to look into proficiency testing. Uses ISO 17025 testing standards. Affordable pesticide, herbicide, fungicide testing? We expect to be doing it next spring. Anyone looking for therapeutic benefit, we need to move to that.

Beth McEwen, Juneau clerk: ask that future notices that are delivered after business hours become effective the next business day.

Cade Ensco: Need for medical endorsement at the retail level. Need higher dosage at the oral form. Higher than 5mg.

Lindsey Barteles: There seems to be an overwhelming demand for tourists to go to consume cannabis. Also, the lack of medical endorsement push people to the black market. People are shocked to hear we have a 5 mg dosage limit.

● BOARD GOVERNANCE

9:55am

Board asked to declare any changes to ethics disclosure. No changes.

● ENFORCEMENT UPDATE

9:55 am

A. Enforcement Report

James Hoelscher: Re-implementing compliance check and shoulder tap program. Working with other law enforcement agencies to prevent delivery of alcohol to minors. Compliance checks were put on hold in

spring 2015. Compliance with regulations continues to be an issue. Enforcement continues to prioritize licensees over non-licensees. 82 walk throughs, 92 inspections, 11 advisory notices, conducted 29 background checks, issued over 1,000 handler cards. 3,891 calls and requests for service from all alcohol and marijuana issues. Relationship with federal agencies, we haven't had the door shut on us when we request assistance. They do their best to accommodate requests as permitted. Overall goal is to ensure the laws are followed. Types of violations across alcohol and marijuana are similar. Strict laws on advertisement for both alcohol and marijuana. One isn't more severe than another. Sale or purchase by minor is the number one concern.

Emmett: There are 2,000 alcohol licensees and one percent receiving violations. 200 marijuana licensees with 10 percent receiving violations. This seems like disproportional enforcement.

Hoelscher: The difference is between an industry that has been regulated for a long time versus an industry that has been regulated for only about a year. A lot of confusion around advertising regulations.

Springer: Any plan to print the marijuana regulations in the same manner as the alcohol regulations?

McConnell: Plan, maybe when the regulations are more settled. The regulations are posted in PDF on our website.

B. Notices of Violation Issued and Licensee Responses

C. Recommend Investigator Chiesa to Carry Firearm

McConnell: Mike Chiesa has six years in Alaska and 20 years law enforcement experience and is a certified firearms instructor. ABC issued delegated approval at the July 11 meeting. Also requires commission from the Department of Public Safety.

Springer moves to adopt memo to give authorization to Investigator Chiesa. Emmett seconds.

Emmett: How would you describe relationship with licensees?

Chiesa: Licensees are customers. Try to keep a positive rapport and to educate them with the law. You hope to keep an open relationship. Positive conflict resolution, try to find common ground. In law enforcement, you aren't going to find agreement with everyone.

Motion carries 5-0.

● LICENSING UPDATE

11:00am

A. Temporary Ownership Change Reports (Transfers Required)

TAB 8

- 1. License #10035:** **Arctic Herbery**
Licensee: 7107 Ventures, LLC
License Type: Standard Marijuana Cultivation Facility
Premises Address: 7107 Arctic Boulevard
 Anchorage, AK 99518
Local Government: Municipality of Anchorage
License: **Standard Cultivation Facility**

- 2. License #10037:** **Arctic Herbery**
Licensee: 7107 Ventures, LLC
License Type: Retail Marijuana Store
Premises Address: 7107 Arctic Boulevard
 Anchorage, AK 99518
Local Government: Municipality of Anchorage

License: Retail Store

McConnell: Does not require board approval. Will come before the board for renewal.

● APPLICATIONS FROM PREVIOUS MEETINGS

10:10am

A. Tabled Applications

- 1. License #11304: **Hollyweed 907** TAB 9
Licensee: YNY Investment, LLC
Premises Address: 2429 E 88th Avenue
Anchorage, AK 99507
Local Government: Municipality of Anchorage
License: **Product Manufacturing Facility**

McConnell: Still need to address CO2 concentrate and bubble hash. Proposed nine products, but only two were approved, and license itself was approved. There were concerns about beverage, its container, how would portions be visible? Concerns about demarcation of servings on certain edibles. Additional information was provided for five products. Each cookie or brownie is one serving, not four. Lemonade, Concentrate and Fruit Punch no new information was provided.

Jana Weltzin, attorney and Helen Yun, Licensee: Only four products with information submitted.

Springer moves to approve brownie bites. Emmett seconds.
Motion carries 5-0.

Springer moves to approve chocolate chip cookie bites. Emmett seconds.
Motion carries 5-0.

Springer moves to approve single serving hot cocoa powder. Emmett seconds.
Motion carries 4-1, Jones votes no.

Springer moves to approve milk cookie bites. Emmett seconds.
Motion carries 5-0.

● BOARD CONSIDERATION

10:47am

A. CannTest (#10009) Policies and Procedures, and Report

TAB 11

McConnell: Licensee has reported failed tests to AMCO office. Board must decide whether policies and procedures are appropriate. In what situation would a failed test not be determined as a failed test? Mark Malagodi and Jonathan Rupp on telephone.

Malagodi: Had an edible product that must fall within a targeted range for potency. Result came in below target range. Could they combine two pieces into a single serving to meet target? We entered the failed result. It then was incumbent on the licensee to submit a new product.

Jones: If you show it as a failed, they can't sell the product. What would the results be for the manufacturer? If you have a product that contains 3.5 mg instead of 5 mg, a manufacturer can't sell that

product. It seems they should just change the label. They resolved it by disposing of that batch and making a new batch.

Emmett: Manufacturer shouldn't put out anything above 5 mg, but should be able to put something out below. Shouldn't result in a failed test.

McConnell: Regulations say it can't be above 5 mg. Who is responsible for verifying the label change? We want consumers to have proper information. This example is a regulatory interpretation, not an ambiguous result. Recommend their procedure should be changed to contact AMCO.

Malagodi: Interpreting results from a scientific perspective should be separated out from a regulatory result. We were issued a violation for an issue of isobutene under the regulations. Did that constitute a failure?

Rupp: Maybe we should add more language to the procedure.

Mlynarik: Direct licensee to work with staff to refine policies and procedures. Will be brought back in September.

B. License #12398:	High Tide Distributors	<u>TAB 12</u>
Licensee:	Dennis R Humphrey	
Premises Address:	49172 Heights Lane Nikiski, AK 99635	
Local Government:	Kenai Peninsula Borough	
License:	Limited Cultivation Facility	
Consideration:	Conditions pursuant to 3 AAC 306.060(b) PFD Residency Ruling Appeal	

Denny Humphrey, on telephone.

McConnell: My understanding is he made an error in PFD application. Just made a mistake about full time employment not part time.

Humphrey: Maintained residence. 16.5 years. I do intend to stay.

Director is requesting approval with delegation, but needs some verification from PFD office prior to approval. MJ-18, person who meets residency requirement under calendar year. PFD is issued for previous year. We won't know until 2018 about 2017 status.

Springer moves to table license application to September. Emmett seconds.

Motion carries 5-0.

● **NEW MARIJUANA HANDLER COURSE PROVIDER APPLICATIONS** **11:10am**

A. MHCP 020:	BudtenderExam.com	<u>TAB 13</u>
Applicant:	Edward McLean	

Emmett asked to recuse himself due to potential conflict of interest.

Springer moves to approve. Jones seconds.

Springer: A lot of content on medical marijuana which is not part of our regulations.

Mlynarik: Refers to marijuana as medication, which is not allowed.

Edward McLean: Statutory penalties are all listed in material as written in code.

Mlynarik: Statutory references are not correct. Did not see any questions about intervention.

Motion fails 0-4. Application is not approved.

B. MHCP 021: CannaEd
Applicant: Tina Smith

Emmett is still recused.

Springer moves to approve. Miller seconds.

Tina Smith: No formal training in education. Raising children and pre-school. Did a lot of research on regulation. Exam and classes have not yet been vetted. We have a lot of clients willing to be test subjects.

Springer: don't have a problem adding with delegation if second does not object.

Motion carries 3-1, Jones votes no.

● **OPERATING PLAN AND LICENSED PREMISES AMENDMENTS**

A. License #10073: Alaskan Blooms, LLC TAB 16
Licensee: Alaskan Blooms, LLC
Premises Address: 2448 Arvilla Street
Building A & B
Local Government: Fairbanks North Star Borough
License: Standard Cultivation Facility

Operating plan amendment and licensed premises amendment.

Springer moves to approve license with delegation, and to accept the recommendation of the director to amend the operating plan and licensed premises. Miller seconds.

Jana Weltzin, and licensee Karen Lowrey

Lowrey: In escrow with the borough over purchased property.

Jones: Inside fence, entire area is restricted access?

Weltzin: We just identified each area and each greenhouse. But the whole area is fenced off.

Emmett: Toured the facility. Area is fairly secure. It is reasonable to assume area inside the fence would not be accessible to the public.

Weltzin: The fence around the property is a chain-link fence. No marijuana will be visible.

Springer motion to accept recommendation of director to amend operating plan and licensed premises.

Miller seconds.

McConnell: Should restricted access area be changed to match licensed premises?

Board concurs.

Motion carries 5-0.

B. License #10082: Einstein Labs TAB 17
Licensee: Einstein Enterprises, INC.
Premises Address: 2939 Porcupine Dr., Suite B
Anchorage, AK 99501
Local Government: Municipality of Anchorage
License: Product Manufacturing Facility

Operating plan amendment.

Springer moves to approve with delegation. Emmett seconds.

Justin Roland on telephone, Jana Weltzin, counsel.

Weltzin: Can the name of product be changed from "Terplucent" to "The Pure" ?

Springer: I don't have a problem with a name change if MJ-15 is submitted in a timely manner. Having trouble following changes being made in MJ-15. We're talking about changing operating plan and leaf chew?

Director: Page 4 of MJ-15, issue with leaf chews was unclear with sizes. They want their name change from "The Clear" to "The Pure."

Mlynarik: request to use failed concentrate? We don't know why it has failed.

Weltzin: if too high a level of solvent, you can take same product and purge it, then re-test it. Enforcement was confused.

Roland: If I have a failed product with too high of solvent, anytime we fail a solvent test, it requires another alcohol wash or additional time in the oven.

Mlynarik: Test wouldn't have failed from microbes.

Emmett: If you had too high a level of solvent, you could take same product, refine it some more and have it re-tested to know you've removed the additional solvents.

Jones: If a product fails a test, then to get a re-test requires a written application to staff. There should be a description in the request for re-test. What will change? I don't want to approve an operating procedure.

Roland: I envision wasting that package in Metrc. Create a new package in Metrc (a whole new batch). I'm taking this failed package, and repurposing it into a new package. We notify the AMCO team, then re-test once approval.

Mlynarik: Approving this with the changing of wording, and approval for re-test has to go through the director before any product is used.

McConnell: Re-test regulation took effect July 5. We will be developing a short form, but for now, I need certain information via email.

Changing name from "the Clear" to "The Pure."

Motion carries 5-0.

Recess for lunch.

Meeting reconvenes at 1:15 pm.

C. License #10005:	Rosie Creek Farm	<u>TAB 15</u>
Licensee:	RCFC, LLC	
Premises Address:	2659 Livingston Loop Fairbanks, AK 99709	
Local Government:	Fairbanks North Star Borough	
License:	Standard Cultivation Facility	

Operating plan amendment and licensed premises amendment.

Mike Emers, licensee and Jana Weltzin, counsel.

Springer moves to approve. Emmett seconds.

Emers: Proposing an operating plan change. Inspectors looked at eight acres, recommended smaller restricted access area. Outer fence, eight feet, sight obscuring. Inner fence of six feet.

Springer: We've licensed premises that are people's yards.

Emmett: Can you control the days in which marijuana will be harvested?

Emers: Told by enforcement to not put temporal component in operating plan.

McConnell: Regulations were predicated on removing product from a licensed premises to another licensee and use a manifest. Regulation only states moving product to another licensee. Not simply

removing it from the licensed premises. There is a co-mingling of things that are highly regulated with things that are not. I did prefer the time-restriction language. Concept of the regulatory structure is that your licensed premises would be contiguous.

Emers: We understand precedent could be set with this. We want this to be done correctly.

Jones: You made a choice when you applied. I have a hard time getting you out of that choice. This isn't a circumstance that changed for you. This existed when you applied. Now you're looking for some kind of change.

Emmett: I'd like to see this approved. How much tougher to we want to make it to operate in this industry. We've not made the numbers. We've generated something like one seventh of the revenue. You can take your kid into that bar and have them watch you shoot whiskey until you are silly, but a farmer has to have this discussion with us. I think we should approve it.

Springer: We may want to consider revising the definition of licensed premises. We should do this the right way.

Springer moves to table the change, Jones seconds.

Motion carries 5-0. Operating plan change tabled.

Milks: Underlying problem is even in the alcohol world, definition of a licensed premises causes problems. Need to review all sources that inform definition of premises.

D. License #10248:	Isidore	<u>TAB 18</u>
Licensee:	Isidore, LLC	
Premises Address:	5200 A Street Anchorage, AK 99518	
Local Government:	Municipality of Anchorage	
License:	Standard Cultivation Facility	

Operating plan amendment.

Springer moves to approve operating plan changes. Miller seconds.

Kyle Denton, owner: Trying to move the surveillance system storage to a different location from under the stairs to into the manager's office. Camera setup is the same. Also requesting a change to scan visitors log daily. Just pointless to scan every day. We will scan once the page fills up. Page 4, motion detectors will be at entrance doors. Doesn't make sense to put in storage rooms. Page 5, eliminated need for safes for product storage. They are behind double locked doors. We want to change daily log of security walk arounds. Panic buttons moved. Bookkeeping changes. Page 9, change data backup from daily to weekly. Change training requirements for employees to as-needed basis. Page 12, disposal—root masses when harvesting twice a week. Huge stacks of root balls we have to store. Root masses in grow medium are not usable. Anything after Day 20 we will continue to grind. Cleanup on transportation. Eliminated sign in cultivation. Quit using mother room. Made a change of disposing all waste. Holding on to root ball waste is bad practice.

Emmett: There is a request to start a regulations project to streamline waste definition.

Director: Board could approve with delegation. Changes listed with exception of waste disposal, do not seem problematic.

Springer: Root masses can't be used for starts, and are essentially unusable. We could specify that these root masses are unusable and can be disposed of in their current state.

Denton: The regulations do not require us to generate the waste prior to reporting it. We harvest twice a week. We could report our waste for those harvest days.

All of the weights of the plants except of the dry weight of the product going anywhere is not trackable. I don't understand the emphasis on the weight.

McConnell: Could licensee use Bleach wash on root balls?

Springer: Amend motion to allow licensee to dispose root balls with notification outside of three day notification, provided they are treated with 50/50 mixture of bleach wash. Emmett seconds.

Denton: Willing to work through delegation process with enforcement to make language that is clear.

Amendment: Approve use of bleach to make unusable.

Amendment carries 4-1, Mlynarik votes no.

Original motion to change operating plan approve carries 5-0.

E. License #10799:	Calm N Collective	<u>TAB 19</u>
Licensee:	Calm N Collective, LLC	
Premises Address:	13886 W Parks Highway Houston, AK 99694-0085	
Local Government:	City of Houston	
License:	Standard Cultivation Facility	

Operating plan amendment.

Temporary approval issued.

Springer moves to approve with delegation. Emmett seconds.

Ron Best, licensee. Jana Weltzin, counsel.

Motion carries 5-0.

F. License #12104:	Coastal Outfitters	<u>TAB 20</u>
Licensee:	Charles Keim	
Premises Address:	38928 Old Sterling Highway Anchor Point, AK 99556	
Local Government:	Kenai Peninsula Borough	
License:	Standard Cultivation Facility	

Operating plan amendment and licensed premises amendment.

Springer moves to approve operating plan. Emmett seconds.

Charles Keim: New building is not yet built.

Jones: Premises diagram needs to be improved.

Motion carries 5-0.

G. License #10237:	AlaskaSense, LLC	<u>TAB 21</u>
Licensee:	AlaskaSense, LLC	
Premises Address:	521 W Tudor Road Unit 202 Anchorage, AK 99503	
Local Government:	Municipality of Anchorage	
License:	Standard Cultivation Facility	

Licensed premises amendment.

Springer moves to approve. Emmett seconds.

Motion carries 5-0.

5 minute recess.

● **NEW PRODUCTS PROPOSED BY PRODUCT MANUFACTURING FACILITY LICENSEES**

A. License #10082	Einstein Labs	<u>TAB 22</u>
Licensee:	Einstein Enterprises, INC.	
Premises Address:	2939 Porcupine Dr., Suite B Anchorage, AK 99501	
Local Government:	Municipality of Anchorage	

Springer moves to approve new product. Emmett seconds.

Jana Weltzin counsel, Justin Roland licensee

Roland: We're refining THC in its purest form. 99.97 percent. Board has already approved by another manufacture. This is a very proprietary process on how it is made. When refined back to a crystal, it has no flavor.

Weltzin: Board may maintain information as confidential.

Springer moves to receive production method to be maintained confidentially. Emmett seconds. This motion was rescinded.

Milks: Remind the board to be consistent. You haven't requested process for all other products. Think about what types of products you have requested this information.

Emmett: I don't think it is necessary for the applicant to describe in detail all filtering and evaporating steps. There is nothing involved in this process that I think would make any members of this board uncomfortable. It is organic chemistry. I am recrystallizing the crystal. I want left out the chemical I am using to process this issue.

Springer: Is the chemical you are using, is that something that is currently being tested for?

Milks: I want to look at prior meetings. Other products have been brought to the board as "using certain solvents." It doesn't necessarily have to be named.

Jones: Would this be exempt from a FOIA request; also, why can't security plan be kept from the public?

Milks: I'm not going to guarantee whether or not this would be available to a FOIA. Everything a public agency does is supposed to be public. Depends on how the board has treated other products.

Mlynarik: This application is not as detailed as others that we have approved.

Springer: We're not talking about using any equipment that hasn't already been approved. You are going to use a chemical that is already being screened for in the testing process.

Weltzin: Chemical is in list of products being tested for.

Roland: Solvent used is not currently listed in operating plan. Board already approved similar product from Babylon.

Emmett: They let people know that they don't want them to know how it is being made.

Director: Is there any new equipment needed?

Roland: All glass has been listed in underlying application.

Motion carries 5-0.

B. License #10903:	Momo's Bakery	<u>TAB 23</u>
Licensee:	JMP, LLC	
Premises Address:	2917 Spenard Road, Suite 102 Anchorage, AK 99503	
Local Government:	Municipality of Anchorage	

Includes associated operating plan amendment.

*Springer moves to approve. Emmett seconds.
Emmett moves to table due to lack of representation. Springer seconds.
Application tabled 5-0.
Springer moves to approve new product with delegation, Emmett seconds.
Pete Eberhardt is on telephone.
Director: This requires a corresponding operation plan amendment. Board delegates that authority.
Motion carries 5-0.*

C. License #10865:	AK Rime	<u>TAB 24</u>
Licensee:	AK Rime, LLC	
Premises Address:	5200 A Street, Suite 101 Anchorage, AK 99518	
Local Government:	Municipality of Anchorage	

*Kyle Denton, licensee.
Jones: Products are mislabeled. Caramels, chocolates?
Emmett: So for clarity, you intend to have caramels and chocolates approved?
Denton: Yes.
Springer moves to approve with delegation. Emmett seconds.
Motion carries 5-0.*

● NEW MARIJUANA TESTING FACILITY APPLICATIONS

A. License #12657:	The New Frontier Research	<u>TAB 25</u>
Licensee:	The New Frontier Research, LLC	
Premises Address:	2301 South Knik-Goose Bay Rd Unit #3 Wasilla, AK 99654	
Local Government:	Matanuska-Susitna Borough	

*Springer moves to approve with delegation. Emmett seconds.
Tracy Vacca and Jessica Alexander, applicants
Alexander: Would like to develop and validate safety and regulatory testing. Develop cannabinoid based opioid replacement.
Vacca has a background in emergency medicine. Background also in food chemistry.
Alexander: We would like to bring some validity and understanding to industry through research, development and collaboration. Proficiency testing is required every three months in other labs. I am in support of proficiency testing. We intend to test other products and do research on other things. Just make sure there is not a problem doing other agricultural testing, beer or wine, herbs, etc.
Mlynarik: MJ-01, question about rendering waste unusable.
Alexander: Product will be ground down.
Jones: Not sure a testing facility can send employee to pick up samples. This needs to be addressed through delegation.
Mlynarik: Question about MJ-06 testing.
Alexander: For potency for edibles, must be within 20 percent.
Weltzin: Did you say you were planning to develop FDA approved prescription drugs?*

Alexander: Would like to develop medications. In about a year, we should have the ability to develop medications. The pharmaceutical industry can dip their toe in this. Definitely we would like to develop cannabinoid-derived medications. We're developing a network of researchers. Those researchers would develop areas for research. Apply for grants to do research, and develop medications to assist with opiate detox.

Motion carries 5-0.

● **NEW STANDARD MARIJUANA CULTIVATION FACILITY APPLICATIONS**

A. License #10048:	Tok Heavenly Cannabis, LLC	<u>TAB 26</u>
Licensee:	Tok Heavenly Cannabis, LLC	
Premises Address:	MP 1308 Alaska Highway Tok, AK 99780	
Local Government:	No Local Government	

Joe Young, Patricia Young, licensees.

Brandon Emmett moves to approve. Springer seconds.

Jones: Does this building exist yet?

J. Young: Not yet.

Mlynarik: Are you grinding all the waste up?

P. Young: Using my technique the root balls decompose rapidly. Would it be okay to sterilize them?

Mlynarik: Just notify three days before you harvest.

Motion carries 5-0.

B. License #10898:	AK Slow Burn Cannabis Outlet	<u>TAB 27</u>
Licensee:	AK Slow Burn Cannabis Outlet, LLC	
Premises Address:	2041 E. 3 rd Ave, Suite A Anchorage, AK 99501	
Local Government:	Municipality of Anchorage	

Emmett moves to approve. Miller seconds.

Lou Weaver, Rob Berks, licensees; Jana Weltzin, counsel

Jones: How does the Board view having a consulting agreement?

Weltzin: AK Restorations—Lou Weaver is the sole proprietor to sell shirts, hats, etc. Can use a POS system for transactions. Also, renovations or restorations to building can be done through AK Restorations. Weaver does not own the building, but has a lease. Using AK Restorations to do the tenant improvements.

Emmett: Tax form 280E? Businesses are forced to reduce number of square feet by doing this practice.

Director: What happens if there is a separate business being run from the same licensed premises? Could we be prevented from accessing records?

Jones: If you have a different point of sale, and there was some suspicion that you were selling marijuana products out of that system...how would the enforcement team get access to a point of sale system?

Weltzin: You could make that same analogy, you could ring up a t-shirt wrapped in weed and you could do it through your marijuana company and have that same risk. We don't have to have separate point of sale. There are a lot of tenant improvements and checks to be cut to contractors. As you know, a marijuana business can't have a bank account very easily. But AK Restorations can.

Weaver: The enforcement guys could come in and look at 55 days worth of video.

Berks: It's the same point of sale system. It's just the non-marijuana side.

McConnell: Alaska Restoration is wholly owned by Weaver. It has a vested financial interest. How do we control whether you have additional partners?

Weltzin: Say the building is owned by a landlord and they're paying rent.

Mlynarik: What is the bright line between Slow Burn and AK Restorations. It's owned by the same person. But if there are issues and we have to get into records, it is hard to pull these two apart.

Weltzin: We could add AK Restorations as an affiliate.

Emmett: When this board was making restrictions on who could have a direct financial interest, the conversation revolved around violent cartels controlling our industry.

Milks: The more categories you offer as affiliates, the more opportunities you create for people to have access to the marijuana industry that the board may not be able to.

Weltzin: Top Hat is a management company without being considered an affiliate.

Jones: Lease issues need to be part of that delegation. What issues need to be arranged in lease agreement to comply with regulations.

Milks: I don't see a problem approving an application with affiliates.

McConnell: We have enforcement tools. Biggest concern is setting precedent.

Milks: The larger issue is affiliates and business partners. In this particular case, none of the risks involved are present in this case. The affiliate is the same as the licensee.

Motion carries 5-0.

C. License #11214:	Alaska Harvest Company, LLC	<u>TAB 28</u>
Licensee:	Alaska Harvest Company, LLC	
Premises Address:	24900 Orion Street, Unit B Kasilof, AK 99610	
Local Government:	Kenai Peninsula Borough	
Consideration:	Conditions pursuant to 3 AAC 306.060(b)	

Dean Bush, applicant

Springer moves to approve with delegation including KPB requirements. Emmett seconds.

Springer: Are you going to be doing background checks yourself?

Bush: No. That should have been eliminated from the application.

Jones: Is your building built yet?

Bush: Building is under construction. Facility is designed for cannabis cultivation. KPB, no requests from them. They usually have standard requests.

Motion approved 5-0.

D. License #11488:	Alaska Tasty Cannabis, LLC	<u>TAB 29</u>
Licensee:	Alaska Tasty Cannabis, LLC	
Premises Address:	2397 Tamara Avenue Fairbanks, AK 99701	
Local Government:	Fairbanks North Star Borough	

Springer moves to approve with delegation. Emmett seconds.

Lance Wells, on telephone

Rex Butler

Azdren Poshka, applicant

Elias Alexander, cultivator

Azdran Pushka lives in Anchorage.

Butler said he is on the board of directors but has no financial interest.

Jones: Facility is in Fairbanks, security contact is in Anchorage?

There is someone in both Fairbanks and Anchorage.

Mlynarik: Who runs the operation if Azdren is in Anchorage?

Alexander indicates he will.

Springer: This is an LLC. But you have a board of directors? I thought LLCs were just made up of members. I guess my question for Mr. Butler is you are a director of an LLC?

Wells: Mr. Butler is not a member. Mr. Azdran Poshka is the sole owner. Mr. Butler said these are friends of his and he just wanted to sit in.

Butler said these are friends of his and he has no financial interest.

Motion carries 4-1. Jones votes no.

E. License #11957:	Last Frontier Joint Operations, LLC	<u>TAB 30</u>
Licensee:	Last Frontier Joint Operations, LLC	
Premises Address:	7180 Revilla Road, Suite 101 Ketchikan, AK 99901	
Local Government:	Ketchikan Gateway Borough	

Springer moves to approve with delegation. Emmett seconds.

Mike Keiser on telephone.

Mlynarik: One of standard warnings in operating plan needs to be changed.

Keiser: Would like to compost waste and reuse. Marijuana byproduct could be turned into wood pellet fuel.

Motion carries 5-0.

Meeting adjourned until July 13.



**Marijuana Control Board
Meeting Minutes
July 13, 2017
Fourth Judicial District
DEC Meeting Room
610 University Avenue
Fairbanks, Alaska**

Chair Mlynarik called the meet to order at 9 a.m.

Roll Call:

- Mark Springer
- Nick Miller
- Peter Mlynarik, Chair
- Brandon Emmett
- Loren Jones

- Erika McConnell, director
- Harriet Milks, attorney
- Jedediah Smith, local government specialist

*Springer moves to reconsider License 11488. Emmett seconds.
Motion to reconsider carries 5-0.*

- | | | |
|---------------------------|---|----------------------|
| A. License #11488: | Alaska Tasty Cannabis, LLC | <u>TAB 29</u> |
| Licensee: | Alaska Tasty Cannabis, LLC | |
| Premises Address: | 2397 Tamara Avenue
Fairbanks, AK 99701 | |
| Local Government: | Fairbanks North Star Borough | |

- Azdran Pushka, applicant*
- Alexander Galante, associate*
- Lance Wells, counsel*

Poshka: Butler is a family lawyer for a long time. He has no affiliation with the business. He has no financial interest. He helps me out with everything I need. He acts in an advisory role.

Wells: Butler is not on the board of directors. Butler looks at Azdran as a nephew. Butler wanted to see the inner workings of the board. Azdran is the sole member of the LLC.

Springer: In your LLC, someone is named as the manager of the LLC. Do you know who that is? It looks like a Korean name. It's in the entity documents.

Wells: *If it is in the operating plan, it is a mistake on my part.*
 Miller: *5.1.4 of operating plan lists Hye Jin Lee as a manager.*
 Wells: *It is my mistake. That was a previous client.*
 Poshka: *anticipate 4 employees*
 Springer: *A decimal error in lease. But I was primarily concerned with the representation of Mr. Butler.*
 Emmett: *The lease is 3,000 square feet, about a dollar per square foot?*
 Springer: *Owner of property doesn't have any rights to the business?*
 Pushka: *He has no involvement at all.*
 Springer: *In your cultivation plan, you have one of the more complete lists of ingredients. You have some pest control components. Would you call those 'pesticides'*
 Gallente: *They are all organic pesticides.*
 Springer: *Are you planning on applying for a retail?*
 Pushka: *Maybe.*
 Springer: *I am satisfied with what I've heard*
 Emmett moves to approve the application. Miller seconds.
 Motion carries 3-2, Jones and Mlynarik vote no.

B. License #12125:	Alaska Medicinal Gardens "AMG"	<u>TAB 31</u>
Licensee:	Alaska Wild Coyote, Inc.	
Premises Address:	838 Bonanza Avenue Anchorage, AK 99518-1707	
Local Government:	Municipality of Anchorage	

Springer moves to approve with delegation. Emmett seconds.
 Armando Gonzales and Sylvia Villamides, applicants (on telephone)
 Springer: *We did approve one license with 'medicine' in the title, but I am uncomfortable. Our regulations prohibit the intimation or description of product as having a therapeutic benefit. Would you be okay with changing the name?*
 Villamides: *We would be okay with that.*
 McConnell: *Board has approved previous application with a variation of medicine in the title.*
 Milks: *'Medicine Woman' is a character from folklore. "Medicinal" in this particular business name has a particular connotation of therapeutic benefits.*
 Springer: *What sort of volume of waste do you assume to get from root balls using rock wool?*
 Gonzales: *132 cubes every two weeks rendered unusable.*
 Jones: *On MJ-01, no interest in other business. But in diagram you show potential retail space and you actually show square footage of retail and product manufacturing.*
 Gonzales: *We revised it and decided to put concentrates and retail in the same facility. We are planning to put more licenses in if approved.*
 McConnell: *Following names have some indication of therapeutic benefits: Hillside Natural Wellness, Denali Dispensaries, Matanuska Medicine Woman.*
 Springer moves to approve with delegation and require a name change to something other than "Medicinal Gardens." Emmett seconds.
 Motion carries 5-0.

C. License #12303: **Peninsula Botanicals (Limited Cultivation)** **TAB 32**
Licensee: Peninsula Botanicals, LLC
Premises Address: 1030 Angler Drive, Unit B
Kenai, AK 99611
Local Government: City of Kenai

Springer moves to approve with delegation. Emmett seconds.

Katherine Staskon, applicant (on telephone)

Jones: There was no mention of the three day notice on the waste disposal. Also, nothing about packaging for wholesale or retail.

Staskon: We will be selling to retail facilities and packaging in house.

Springer: In lease, when the tenant is in default, the landlord can seize the regulated product. The landlord wouldn't have the legal right to seize the product. When purchased property, was granted an easement for garage.

Motion carries 5-0.

D. License #12328: **AK Aurora Blooms, LLC** **TAB 33**
Licensee: AK Aurora Blooms, LLC
Premises Address: 2693 Arla Street
Fairbanks, AK 99709
Local Government: Fairbanks North Star Borough

Springer moves to approve with delegation. Emmett seconds.

Brandon Roybal, applicant

Roybal: Does not plan to do retail facility. Also holds a license on another cultivation facility.

Motion carries 5-0.

E. License #12659: **Alaska Horticultural Arts, LLC** **TAB 34**
Licensee: Alaska Horticultural Arts, LLC
Premises Address: 7918 W. Scarlet Cir.
Wasilla, AK 99623
Local Government: Matanuska-Susitna Borough

Springer moves to approve with delegation. Emmett seconds.

Garrett Smith, applicant (on telephone), Jason Brandeis, counsel

Jones: On premises diagram, significant portion of first and second floor is not part of the lease. Some of the stairs seem to come from part of the building that is not leased.

Brandeis: Melissa Cervantes was previously listed as an associate, but is not currently. Will submit a correction.

Motion carries 5-0.

F. License #12276: **Primo Farms North, LLC** **TAB 35**
Licensee: Primo Farms North, LLC
Premises Address: 15555 W. Parks Highway
Houston, AK 99654

Local Government: City of Houston

Springer moves to approve with delegation. Emmett seconds.

Danny Ferguson (on telephone), Weltzin, counsel

Weltzin: Originally this was going to be an outdoor farm. But since not on the May agenda, it is now a small indoor farm. Building is pre-fabricated but not located yet.

Mlynarik: Leasor is in California, the lease is based on a gross profits.

Ferguson: has 16 hoop houses, plans to operate outside next summer. Will submit operation plan change.

Motion carries 5-0.

G. License #12770:	Secret Garden Cannabis	<u>TAB 36</u>
Licensee:	Axion Enterprises, LLC	
Premises Address:	726 E. 15 th Ave, Suite 3	
	Anchorage, AK 99501	
Local Government:	Municipality of Anchorage	

James Thornton, applicant; Weltzin, counsel

Springer moves to approve with delegation. Emmett seconds.

Thornton: Applicant will have a manager in proximity at all times. Security storage backed up offsite (in the Cloud).

Motion carries 5-0.

H. License #10481:	Goldhill Gardens	<u>TAB 37</u>
Licensee:	Robert Mikol	
Premises Address:	2941 "C" Goldhill Road	
	Fairbanks, AK 99706	
Local Government:	Fairbanks North Star Borough	

Springer moves to approve with delegation. Emmett seconds.

Robert Mikol, applicant

Springer: You are going to be doing this at your home in a greenhouse?

Mikol: Has children. Children will be restricted from accessing greenhouse. Don't anticipate any visitors.

Provides description of alarm system and safe room.

Jones: Will your family members be employees?

Mikol: My wife will probably help out and will get a handler card.

Jones: If you and your wife are gone? You'll have another employee

Mlynarik: My concern is there is a lack of detail in the security plan.

Springer: Moves to table application. Allow applicant to provide more detail on security. Jones seconds.

Emmett: Speaking in favor of application. I don't think he is woefully unprepared for this. I have confidence in his ability to provide detail.

Motion carries 4-1. Emmett votes no. Application is tabled to the September meeting.

I. License #12872:	Greenstar, Inc.	<u>TAB 38</u>
Licensee:	Greenstar, Inc.	
Premises Address:	54843 Kenai Spur Highway	
	Nikiski, AK 99635	

Local Government: Kenai Peninsula Borough
For Consideration: Conditions pursuant to 3 AAC 306.060(b)

Springer moves to approve with delegation. Emmett seconds.

Jason Bott, applicant

Bott: Someone will be there 24/7. No grow medium. All aero. Root mat will be rolled up, ground and disposed of onsite.

Motion carries 5-0.

● **NEW LIMITED MARIJUANA CULTIVATION FACILITY APPLICATIONS**

A. License #11556: Green Thumb Solutions TAB 39
Licensee: Jacob Nyman
Premises Address: 47375 Aries Ct
Soldotna, AK 99669
Local Government: Kenai Peninsula Borough
For Consideration: Conditions pursuant to 3 AAC 306.060(b)

Springer moves to approve with delegation and conditions. Emmett seconds.

Jacob Nyman (on telephone)

Nyman: Has children in household. Wife will be employee. He is the principle owner. Operation is accessed through master bathroom. Once fully operational, may hire a part-time employee.

Jones: Concerned about process of having propane creating CO in the enclosed bunker. Applicant said there is good air flow and facility will be inspected by state fire marshal.

Nyman: Grinding will take place in the yard near the compost pile.

Mlynarik: If it is marijuana, you shouldn't remove it from the restricted access area.

Springer: Delegation should include rendering waste unusable prior to grinding marijuana (50/50 water and bleach).

Nyman: If that is a concern, I can switch the system.

Springer: If Fire Marshal looks at it and approves it, then feel free to amend your plan in the future.

Motion carries 5-0.

B. License #11920: AK Joint TAB 40
Licensee: Alaska Joint Ventures, LLC
Premises Address: 7801 Schoon Street, Unit D
Anchorage, AK 99518
Local Government: Municipality of Anchorage

Mark Springer moves to approve with delegation. Emmett seconds.

Rich Beasley (on telephone)

Colleen Howard, applicant: In the event we want to get waste out of the facility, we would use the one to one ratio and send to landfill. Operation located in a business park.

Motion carries 5-0.

C. License #12289: Raven Buds TAB 41
Licensee: Carol Bolt; Dave A Mullis; Kerri A Mullis
Premises Address: 2441 Lawlor Road, Cabin C
Fairbanks, AK 99709
Local Government: Fairbanks North Star Borough

*Springer moves to approve with delegation. Emmett seconds.
Springer Moves to table application, pending applicant appearance.
Jones: Requests more staff analysis regarding objection, which appears significant.
Springer: The location is near a youth treatment center.
Motion carries 5-0. Application is tabled until September meeting.*

D. License #12637:	Hilltop Premium Green LLC	<u>TAB 42</u>
Licensee:	Hilltop Premium Green "LLC"	
Premises Address:	13856 N. Glenn Highway Sutton, AK 99674	
Local Government:	Matanuska-Susitna Borough	

*Springer moves to approve with delegation. Emmett seconds.
Chad Kudaleck, applicant; Sarah Williams, business consultant.
Williams: Director will be notified of waste disposal.
Jones: What is in-house testing.
Kudaleck: That's a typo.
Director: Board would like to see in a lease that the landlord may not seize marijuana products as part of the agreement.
Motion carries 5-0.*

E. License #12825:	Foley's Irish Green	<u>TAB 43</u>
Licensee:	Troy J Foley	
Premises Address:	3530 S Phenix Ave Wasilla, AK 99623	
Local Government:	Matanuska-Susitna Borough	

*Springer moves to approve with delegation. Emmett seconds.
Foley: Premises is located in a detached barn on property. Has children that would not be allowed to access premises. Odor control delivered through chimney pipe and carbon filter.
Jones: Second floor premises diagram doesn't seem to be an adequate depiction of what will take place in the restricted access area.
Foley: Provided description of second floor including electric shredding machine.
Motion carries 5-0.*

F. License #12550:	Frontier Farmers	<u>TAB 44</u>
Licensee:	JJH Holdings, LLC	
Premises Address:	6284 N Carrie Street Wasilla, AK 99654	
Local Government:	Matanuska-Susitna Borough	

*Springer moves to approve with delegation, Emmett seconds
Josh Hunter, applicant; Weltzin, counsel
Hunter: Looking at Vivint security system. Currently the building has roof and Tyvek. Awaiting inspection from fire marshal on approval prior to wiring.
Motion carries 5-0.*

G. License #12255: Lady Gray Growing TAB 45
Licensee: Lady Gray, LLC
Premises Address: 36322 Pine Street, Unit 1(a)
Soldotna, AK 99669
Local Government: Kenai Peninsula Borough
For Consideration: Conditions pursuant to 3 AAC 306.060(b)

Springer moves to approve with delegation and Kenai Peninsula Borough conditions. Emmett seconds. Weltzin, counsel; Jamie Tasha Gross, applicant (on telephone)

Tasha: The operation is not in a residence.

Jones: Confused about statement that leaves and leftovers will be recycled back to soil as amendment.

Anything above that will be mixed in trashbags and deposited into dumpster site.

Motion carries 5-0.

H. License #12448: Will's World TAB 46
Licensee: Will's World, LLC
Premises Address: 12151 E. Palmer-Wasilla Highway
Palmer, AK 99645
Local Government: Matanuska-Susitna Borough

Springer moves to approve with delegation. Emmett seconds.

Dale Little, applicant; Jana Weltzin, counsel

Little: Describes building to be used as licensed facility. Facility is leased to Little, then subleased to the entity. Lessor is aware of purpose of lease. If lien comes into effect, it would not apply to marijuana.

Motion carries 5-0.

Recess for lunch. Will reconvene at 1:15

Meeting reconvened at 1:18 pm

I. License #12002: Van Geer Enterprises, LLC TAB 47
Licensee: Van Geer Enterprises, LLC.
Premises Address: 7411 W. Dean Drive
Wasilla, AK 99623
Local Government: Matanuska-Susitna Borough

Springer moves to approve with delegation. Emmett seconds.

Lance Wells: Unaware of any response from Mat-Su Borough. Community council met the previous day, issues were not brought up at the meeting.

Cameron Van Ryan, licensee: lives on the property.

Mlynarik: Needs to submit a new diagram reflecting a more accurate premises diagram.

VanRyan: No risk of contaminating watershed with hydroponic nutrients. Operation plan uses dirt.

Motion carries 5-0.

J. License #12830: Arcticanna TAB 48
Licensee: Nadia Ispas.
Premises Address: 756 Davenny Drive
Fairbanks, AK 99712

Local Government: Fairbanks North Star Borough

Springer moves to approve with delegation. Emmett seconds.

Nadia Ispas, applicant: Premises will include keypad entry, sensors on doors and windows, and cameras. Premises is inside the house. Applicant has no children. House is owned by the licensee’s boyfriend. He does not have a financial interest in the business. The stairs are in the unrestricted area. To get to the bedroom, must go up the stairs. The downstairs bathroom is part of the restricted access area. Packet shows old business license number.

Jones: So, you lease the entire house? But this agreement is only for two rooms. The grow has a rent of \$600 for the whole house?

Ispas: he’s my boyfriend. Gives me a good price.

Jones: Your boyfriend won’t have access to the restricted access areas?

Ispas: No. It will be locked.

Springer: Your boyfriend lives in the house? He’ll be going up the stairs to the bedroom?

Ispas: Yes.

Springer: You’ll have the only key to room two and room one?

Ispas: Yes.

Springer: Can you break down the detail? You don’t really show us where you’re going to have the tents.

Ispas: The tents going are going to be inside the room. Upstairs has two huge closets where I’m planning to grow.

Jones: Looking at the premises diagram, on the lower floor, you show the cultivation facility outlined in red. The stairs are inside that area. On the second floor, the stairs come into the restricted area. To get up the stairs, you have to go through the restricted area.

Ispas: the stairs are not in the restricted area.

Springer: Is there any reason you have the stairwell inside the pink line.

Ispas: Because I’m going to be going from room to room and might need to carry things.

Springer: So the only storage area is off room 2.

Ispas: There is a little storage area off room 1.

Springer: Where is your grinder going to be?

Ispas: On the second floor.

Jones: I’m not sure there’s as much separation as what appears.

Motion carries 4-1, Jones votes no.

● **NEW RETAIL MARIJUANA STORE APPLICATIONS**

A. License #11614:	AK Joint	<u>TAB 49</u>
Licensee:	Alaska Joint Ventures, LLC	
Premises Address:	7801 Schoon Street, Unit F Anchorage, AK 99518	
Local Government:	Municipality of Anchorage	

Springer moves to approve with delegation. Emmett seconds.

Rich Beasley (on telephone), Colleen Howard.

Howard: not planning to have anything packaged for resale. Cultivation facility is two doors down. Plan to sell 100 percent of cultivation in retail facility. There is a spiral staircase that meets residential code, not commercial code. We’re just using it as a utility corridor. It will be restricted, but no employees or product will go up there. Just appliances.

Jones: Mezzanine needs to be restricted access area.

Motion carries 5-0.

B. License #12325:	Good LLC	<u>TAB 50</u>
Licensee:	Good LLC	
Premises Address:	356 Old Steese Highway Fairbanks, AK 99701	
Local Government:	Fairbanks North Star Borough	

Christian Hood, owner. Trevor Haynes, general manager.

Jones: We've had discussions about retails tracking customer names and real time tracking of inventory. Maybe you could explain what you intend here.

Haynes: We will maintain customer records for those customers who wish be notified of promotional activities. We've discussed doing promotional activities. Participation is voluntary.

Emmett: Your business cannot promote consumption or overconsumption.

Motion carries 5-0.

C. License #12635:	Hilltop Premium Green LLC	<u>TAB 51</u>
Licensee:	Hilltop Premium Green" LLC"	
Premises Address:	13856 N. Glenn Highway Sutton, AK 99674	
Local Government:	Matanuska-Susitna Borough	

Springer recuses himself.

Emmet moves to approve with delegation. Mlynarik seconds.

Chad Kudaleck, applicant. Sarah Williams, consultant

Motion carries 4-0.

D. License #12768:	Secret Garden Cannabis	<u>TAB 52</u>
Licensee:	Axion Enterprises, LLC	
Premises Address:	726 E. 15 th Ave, Suite 1 Anchorage, AK 99501	
Local Government:	Municipality of Anchorage	

James Thornton, applicant; Weltzin, counsel

Emmet moves to approve with delegation. Miller seconds.

Motion carries 5-0.

E. License #10589:	Natures Releaf LLC	<u>TAB 53</u>
Licensee:	Natures Releaf, LLC	
Premises Address:	503 7 th Avenue Fairbanks, AK 99701	
Local Government:	City of Fairbanks	

Springer moves to approve with delegation. Emmett seconds.

No representative. Springer moves to table until represented. Emmett seconds.

Motion carries 5-0. Application tabled.

F. License #11793: **Alaska Native Cannabis Company, LLC**
Licensee: Alaska Native Cannabis Company, LLC
Premises Address: 37650 Ridgeway Street
Sterling, AK 99672
Local Government: Kenai Peninsula Borough
For Consideration: Conditions pursuant to 3 AAC 306.060(b)

TAB 54

Springer moves to approve with delegation. Emmett seconds.

Lance Wells, counsel. Carmen Perezchino, applicant

Wells: Client's wife and children are Alaska Native.

Perezchino: The premises is close to residence, where lived for 8-10 years. Sign was put up recently.

Building was leased to someone who was attempting to run an unlicensed marijuana operation.

Emmett: Are you referring to the unlicensed facility with the green cross that was being run out of that same building?

Mlynarik: Yes.

Wells: Advised client that tenants were operating an illegal operation. Troopers contacted the owner.

Wells: This was a very grey area. They (Kenai Peninsula Borough) basically said, 'we're going to leave it to you to shut it down.'

Emmett: There is the perception there was an unlicensed dispensary running out of that building.

Wells: They were running a club where you buy tickets to get marijuana. My advice was to shut it down.

Perezchino: The borough, the gaming commission and the troopers all said it was a gray area. They were contacted by the narcotics division and when I was told there was the potential for trouble, I shut it down immediately.

Mlynarik: I think we have different perceptions of how that went down.

Wells: I think it is important that Perezchino came forward to shut down the operation. While we have people flagrantly violating the laws, my client wants to see this done correctly and one of the things we all strive for here.

Motion fails 1-4. Miller vote yes. Application denied due to a history of illegal marijuana related activity at the proposed licensed premises at a time when the applicant had control of the location.

● REGULATIONS

A. Regulations Process Refresher

Jedediah Smith, AMCO Local Government Specialist: Describes steps in the regulations process. All projects are initiated by the board. The Administrative Procedures Act requires a minimum of 30-day public comment period. Every step in the regulations process must be done in an open and transparent way. If you as members are contacted regarding a regulations project, encourage those people to submit their comments through the proper channels, so that there is no misperception that only select board members are getting information.

Milks: Our job is to get it right, not do it fast. Sometimes boards will ask for expedited process. But no specific statutorily required deadline. The AARC is Administrative Regulations Review Committee. Joint committee of the legislature to review regulations. They have not contacted the board attorney in five years since she has worked with AMCO.

Jones: There is still a required notice for the legislature.

B. Proposed Regulations Projects

criminal issue. Please strike (f)(2). Under (g), employer should have to submit background check, not the employee. The handler shouldn't have to spend the extra \$50 for a background check. I think people should also be innocent until proven guilty. Strike indictment, because we'd be passing judgment before the court system has done its due process.

Emmett moves to strike (f)(2) from 3 AAC 306.700. Springer seconds.

Mlynarik: These are not minor drug offenses. A lot of them used to be felonies. There is still a process to go through.

Jones: The concern to me is this is a person who has been convicted. If someone has been convicted with one valium in their pocket, there is something else going on. They probably were not searched or arrested based on that one pill. Implies more significance to me than just some arrest.

Springer: I wonder if the maker of the motion would object to making it two years instead of five years? We have to keep in mind the handler card attempts to protect the public safety.

Emmett withdraws amendment.

Springer moves to change (f)(2) in 306.700 from five years to two years. Emmett seconds.

Miller: The court system provides for people to pay their debt to society. There are employees that have marijuana handler cards. If we're going to do something with handler cards, let's do something the enforcement

team asks for. I don't support the regulation at all and don't support the amendment. Amendment passes 3-2, with Mlynarik and Jones voting no.

Emmett moves to strike 306.700(f)(4). Motion dies for lack of a second.

Emmet moves to strike 306.700(g) from the proposed draft. Miller seconds.

Emmett: That language puts undue burden for individuals seeking employment.

Jones: Given the above changes, I don't think we can eliminate (g) at all, unless we ask them under penalty of perjury. I don't see how you can have any part of (f) if you eliminate (g).

Emmett: If (g) was struck, we'd have to add a new (g) the applicant has to attest under penalty of perjury.

Milks: need statutory authority for a nationwide background checks.

Mlynarik: Are enforcement officers able to look in APSIN? APSIN has rules on when you can run checks and for what reasons.

Springer: In 2016 we issued over 1000 handler cards. Without convictions, what is the sense in our ability to enforcement this.

Break 3:55pm

Mlynarik: You can get a background check for employment from the Troopers. It costs \$20. The report will not show if someone is under indictment.

Amendment passes 3-2, Jones and Mlynarik vote no. (g) is stricken from the draft.

Emmett: Would it be easier to add disclosure language?

McConnell: We have several unlicensed business and only 8 enforcement officers. If that is how the board wants them to spend their time, the board sets priorities.

Emmett: All of this in here is much more than is required for alcohol. I sympathize with staff.

Springer: We should have a way to discipline a handler card holder. If they violate anything in 3AAC 306, or if they misrepresent themselves as acting under the authority of the chapter or the statute, we should have the ability to revoke that permit.

Amendment: Miller moves to amend 306.8xx, replacing (a) and (b) with (a) 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 acting in violation of this chapter or the public interest." Springer seconds.

Mlynarik: If this is in place, then anyone listed in 700 could have their card suspended or revoked?

Springer: There are enough ways to not be eligible to work in this state. Let's not create one more.

Miller: It is up to the employer to do the background check. When you categorically disqualify someone from doing their job, they have no choice but to revert to illegal behavior.

Mlynarik: This is not a typical industry. It is highly regulated because it is still federally illegal. I know it seems onerous.

Motion carries 3-2, Jones and Mlynarik vote no.

Mlynarik asks for changes to 3 AAC 306.750.

No comments.

Springer moves to amend to bifurcate 750 and 990(a) from the motion. Miller seconds.

Motion carries 5-0.

Springer moves to send 3 AAC 306.700 and 3 AAC 306.8xx to public comment, Miller seconds.

Motion carries 5-0.

Jones moves and Emmett seconds to adopt 3 AAC 750 and 990(a)(10).

Motion carries 5-0.

Meeting adjourns for the day.



**Marijuana Control Board
Meeting Minutes
July 14, 2017
Fourth Judicial District
DEC Meeting Room
610 University Avenue
Fairbanks, Alaska**

Meeting called to order at 9 am

Members present:

Peter Mlynarik, chair
Mark Springer
Nicholas Miller
Brandon Emmett
Loren Jones

Staff present:

Erika McConnell, director
Harriet Milks, attorney
Jedediah Smith, local government specialist

● **REGULATIONS**

A. Onsite Consumption Endorsement

TAB 57

Status: Three proposals for initial board consideration

Potential Board Actions: Choose proposal to work on; AND
Amend and/or put out for public comment

Loren Jones moves to adopt regulations in page 2 of the packet (Jones version). Pete Mlynarik seconds. Jones: This version eliminates all references to onsite consumption in current regulations. The reason is our last action was to stop the previous regulation project that had been underway. At the time I wrote this, we had talked about opening another project. I submitted these by the deadline for proposals. For clarity, if we're not going to move ahead in any other way, it is best to move ahead with removing references in current regulations of onsite consumption.

Mark Springer: We have been waiting awhile to get something out there. Comments I've made in the past notwithstanding, I don't think a two year moratorium is a good thing. I don't think we should remove onsite consumption from the regulations.

Mlynarik: We would be the first state to do this. Other states have been in this longer than we have and haven't been obliged to do this. You have to have someone to monitor this. There are no ventilation systems that will take this stuff out of the air. If there are people assigned to monitor this, how good are they at monitoring this. We really don't know all the effects that marijuana smoke has. We know there

are a lot of chemicals. Someone required to monitor this shouldn't be exposed to this. Someone who has been consuming, if they get out and drive, there is a risk to the public. I don't think it is prudent to be the first state to get out and do this.

Jones: I would also point out the initiative passed that is now law, talks about nothing in this chapter allows for consumption in public. If we as a board, approve onsite consumption, we need to be cognizant that this doesn't violate consumption in public. We could end up in court. Retail stores are treated under almost every rule as a public entity. They must follow OSHA and HIPAA rules. If we really felt allowing consumption in a public manner was crucial, we should go to the legislature for the authority to do that. Motion fails 2-3, Jones and Mlynarik vote yes.

Brandon Emmett moves to put out for public comment 3 AAC 306.365 Onsite consumption endorsement for retail marijuana stores (Brandon Emmett Draft). Nick Miller seconds.

Emmett: This is a ghost of drafts past. I brought additional language today that address concerns that this draft didn't address. Recent events that happened in Anchorage, the Assembly adopted a resolution urging this body to adopt an onsite consumption endorsement to include smoking. Tourists have been purchasing product but have nowhere to smoke it. Fifty percent of all sales in downtown have been to tourists. Assembly member Constant remarked that people are buying marijuana and smoking it in green spaces. It puts law enforcement in an awkward place of having to enforce laws on tourists. Anchorage is the largest city and is asking us to adopt some kind of onsite consumption. I think it is important that we give people somewhere to do it legally.

Springer: Moves to amend the proposal 3 AAC 306.365, striking section (3) and remove concentrates as a product that could be consumed in an onsite consumption area. Brandon Emmett seconds. Amendment carries 5-0.

Jones moves to amend the draft to require premises diagram show that the retail facility that applies for and receives an onsite consumption endorsement is in a standalone facility to reflect a bill that is currently before the legislature that would create a smoke free workplace environment. The premises diagram would have to show this is in a standalone building if that bill passes. Mlynarik seconds.

Springer: From a process and policy perspective, I'm not sure it is wise to regulate in anticipation of statute. If that bill doesn't pass, we will have created a regulation that forces a licensee that wants onsite consumption to build a separate structure.

Jones: If these regulations came into effect by next January, this would apply statewide. We have buildings that no longer comply. We would have the ability, if that bill fails, to amend our regulations. To get out in front of a limiting factor, and then expect the industry to pull back on something they've been doing for three weeks isn't fair.

Harriet Milks: You can't put in a regulation "if such and such legislation passes." A statewide smoking ban has been before the legislature for many years and has never passed. It is always possible the legislature could include a grandfather provision. My question is, are we talking about a standalone building for all forms of consumption, or simply for combustion. If we say all consumption has to be in a standalone building, that will inform drafting of the regulation which section to place the regulation.

Emmett: Cannot support the amendment. I don't think we should create legislation in anticipation of what the legislature may or may not do.

Mlynarik: Have the restrictions on smoking ever been loosened? You can use history as a gauge for the future. History says the smoking laws are probably going to get tighter. Smoking is smoking. You can't say that tobacco smoke and marijuana smoke are different in terms of health concerns.

Jones: I would amend my motion to state that standalone building would only apply for smoking. Several communities in Southeast include e-cigarettes in smoking bans. It's not just tobacco. In my community, when we amended that with passage of AS 17.38, we included marijuana. You can smoke tobacco in our public parks, but not marijuana in public parks. I would be willing to make it understood this motion for standalone building is only for combustibles.

Milks: A local ordinance that conflicts with state law under 17.38 and your regulations would fail. 17.38 says that a local governing body can enact a law so long as it is not inconsistent with 17.38. It is the opinion of the Department of Law that the marijuana statute contemplates some form of onsite consumption. What that looks like is up to you. One option the board has, if you are concerned about local ordinances, you could say "except where prohibited by local ordinance." Then it would be up to you to decide what to do in communities that do not have local ordinances about that kind of thing.

Mlynarik: I thought local laws could be more restrictive.

Milks: If state law says you can consume, and a local government says you can't, that's inconsistent.

Jones: The way this will get tested is if we keep our ordinance and a shop is allowed to consume, the city would cite the shop and the shop would sue the city, and the local ordinance would be upheld, according to our attorney. There seems to be a difference of legal opinion. I support putting this kind of amendment in here.

Mark Springer moves to amend the Jones amendment to strike amended (f) and in (e)...adequate separation of remove the period, add a comma and add "including in a separate structure on a licensed premises if allowed by law." Emmett seconds.

Milks: "allowed by law" included state down to local level. You would need to say "unless otherwise prohibited by law."

Springer: this creates a physical structure on the licensed premises gives people a place to smoke their leafy products. My amendment says that if it is allowed, your plan should show that separate structure.

Jones: Currently under the regulations, the retail store has to show on the retail premises. Some of the cultivation licenses have separate buildings we consider all one premises because it is all on one lot. We haven't considered a retail store that could include a separate standalone building. I'm not sure how allowing a separate structure in the back of a retail shop that is attached to three other buildings, would be allowable.

Springer: If the legislature passes legislation that allowed for consumption in a separate building, you won't see very many of them.

Jones: We are licensing a retail facility. On-site would be an endorsement that is part of the licensed premises. It can't be out back unless the entire area is part of the licensed premises.

Springer: there will obviously be a lot of people coming back to amend their license. They will have the burden of financing additional property. I'm just anticipating it could happen, not that it will happen.

Milks: I am concerned that what is being proposed is too vague.

Emmett: there is either adequate separation or a separate structure.

Milks: You are the authority for allowing licensed premises. You are allowing the licensee to submit a diagram that includes a separate structure for onsite consumption. As long as it is clear as to the board's intent, my office can wordsmith that to make it work. I think the record is clear that what you're intending is to provide for the circumstance in which the legislature says 'if you want to have onsite consumption, including smoking, you have to do it in a separate building.' Am I correct?

Springer: Yes.

Springer's amendment to Jones' amendment carries 3-2, with Jones and Mlynarik voting no.

Jones amended amendment carries 3-2, with Jones and Mlynarik voting no.

Springer: Can I ask Ms. Milks whether there is any conflict that needs to be repaired between the motion that just passed and (4) (D) the subject to a licensed premises.

Milks: The answer is yes.

Emmett moves to amend the draft under subsection (b)(2)(A)(i-iv) to include security plan requirements
Springer seconds.

Jones: If the consumption area is already part of a licensed premises, isn't (iv) redundant?

McConnell: What I found unclear is could the onsite consumption area contain a separate access? If so, it would need the appropriate security measure.

Mlynarik: This should include all the required security rules for other licensed premises.

Milks: Because this is an onsite endorsement, all the requirements for a retail apply per force. But it could be that because the product is out in the open, it seems the board could add another layer of requirements on top of the endorsement.

McConnell: What is "to the board's satisfaction" that is vague. The board should provide additional detail.

Mlynarik amends "security in addition to what is required for a retail marijuana establishment must include: (roman numerals for security.) Springer seconds.

Amendment carries 5-0.

Emmett's amended amendment to (b)(2)(A) carries 4-1, Jones votes no.

Brandon Emmett moves amendment and add (b) (2)(B)(i-ii) on ventilation requirements. Springer seconds

Emmett: Bingo halls have units that remove smoke from the air. Nothing removes 100 percent of particulates in the air. This ionizer removes pm2.5 particulates. Not 100 percent removed. But it does seem to handle the smoke pretty well.

Springer: Should we include a technical standard to define how a system should be engineered, for example, capable of removing pm2.5. I kind of think that since we are trying to regulate a public health issue, we should describe the smallest item of particulate matter we would like removed from the air.

Milks: Law will want to say "no less than..." If you set an absolute value, you'll have to change that.

Mlynarik: I want to reiterate my concerns with second hand smoke. What protects the employees? You are asking this person there to monitor and they may be impaired. We don't know how they will be impacted.

Emmett: Maybe I should have included further language, a separation for the employee, a viewing station. Someone separated from the consumption area. Intend to address in a subsequent amendment.

Emmett Amendment 2 carries 3-2, Jones and Mlynarik vote no.

Brandon Emmett moves amend subsection (b)(2)(C)(i-iii), to include a separate viewing area for employees, and create other separation. Springer seconds.

Emmett: One of the best ways to prevent people from being exposed is by having a designated outdoor smoking area.

Springer: I'm happy to see smoke free area for employees component.

Milks: These are presented as alternatives, because it includes "OR"

Emmett: If the smoking area is outside, then it is separated from where the employees are going to be. If that is unclear, I'm open to amending to clarify. The intent is to allow for smoking, but also protecting individuals who don't want to be exposed.

Jones: If by regulation we can override a local ordinance, this overrides my community's laws. At our hospital campus, it is prohibited even outside.

Milks: I make no predictions about what would happen in a protracted litigation. The statute (17.38.220) says we're not going to get involved in what employers must do. The board's job is to regulate marijuana.

Emmett: Under H of 4, that local governments retain the right to protest renewal of licenses...It would be reasonable to assume if the local government says we want someone to have a store, but we are vehemently opposed to consumption, that would come before the board.

Springer amends the Emmett amendment to (i) "employees monitoring the consumption area." Emmett seconds.

Springer's amendment carries 3-2 Mlynarik and Jones vote no.

Emmett's amendment regarding separation areas carries 3-2, Mlynarik and Jones vote no

Emmett, for the record: i & ii OR iii

Springer: Even under (iii), it would still be a monitored area by employees.

Emmett moves amendment 4 365(b)(3)(E)...intent of previously amended subsection. Springer seconds.

McConnell: The section now says, as amended by the board, "adequate separation from nonconsumption areas of the marijuana retail store, including in a separate structure on a licensed premises when required by law." If you want to amend that to add, "when required by law consistent with (b)(2)(C) of this section," I want you to be clear on what you are amending.

Springer: Should we include the word 'and' before 'consistent'? It should apply to inside the store and outside the store.

Milks: If your intent is the requirements of (b)(2)(C) apply, we can make that happen.

Amendment carries 3-2, Jones and Mlynarik vote no.

Loren Jones moves AMENDMENT 5 (d)(4) is authorized to sell food and beverages not containing marijuana; EXCLUDING tobacco and alcohol. Mlynarik seconds. Intention is to not allow sale of tobacco and alcohol...probably add (5).

Motion carries 5-0.

Loren Jones: Do we want to allow onsite entertainment such as live music or games? Also, do we want to limit consumption hours? And where would that go in the regulations? Is this the appropriate section?

Harriet Milks: Once we're clear on intent, we'll work with section numbers. If it is an entirely new and important concept, it might need a new section or subsection. We are trying to clearly communicate to the public the intent of the board.

Loren Jones moves to amend the section to read, "No onsite entertainment may be provided in consumption area of retail store" Mlynarik seconds.

Loren Jones: If we limit entertainment, we would limit the amount of time a person actually spends there.

Emmett: I don't see why we would need to be so overly strict about the time someone is going to spend in one of these venues. If another regulatory body allows TVs and pool tables in bars, I see no need to have more restrictive regulation in a consumption area for something that is objectively safer.

Springer: Looking at some potential floor plans for consumption areas, they are awfully small. I don't think we need cannabis cafes like in Amsterdam. But this seems onerous. I don't see that we should be delving down into legitimate market decisions by business people.

Emmett: People who consume cannabis, it is a very social and mellow experience for most consumers. The experience is much different than alcohol. Most people choose to do something relaxing after they consume.

Telling people 'you have to smoke this and get out of here' doesn't really embody what our community has envisioned for onsite consumption.

Jones: For many of us that are not consumers, that is not our impression, and may not be what we want to see. The initiative passed and it said no consumption in public. If you limit the time, if you limit the entertainment, you might be able to defend that definition of in public. But if you say someone can spend 6 or 7 hours in there, I think there's an issue there.

Springer: Tourists are not going to be going in there to get as thrashed as possible. We have limits on how much to consume. It is a gram and two servings of an edible.

Miller: Can't support this. It is a business decision. It is not what most folks think.

Jones amendment fails 2-3, Mlynarik and Jones vote yes.

Emmett: The rest of my amendments are “housekeeping” suggestions that staff had made. Would it be appropriate to bring these as one amendment?

McConnell: Perhaps you could propose them all as one amendment and see how the board members react?

Emmett proposes amendments to the section beginning with changes after (e)(2), three specific changes regarding onsite consumption area restricted access, labeling, addressing marijuana obtained off the licensed premises. Springer seconds.

Amendments carry 5-0.

Springer moves to amend (d) separated from remainder of the premises, insert “either by being in a separate building or...” Emmett seconds.

Springer: this aligns with my previous amendment.

Motion carries 4-1, Mlynarik votes no.

Jones: There is no reference in an enforcement section. Are we clear on what the penalties would be if a licensee is found in violation of consumption endorsement? Or is a violation apply to retail as well? Do we need language that references fines and enforcement in 306.800?

Milks: Onsite consumption is an endorsement of a retail. Any violation of consumption rules would be a violation of the regulations pertaining to retail license. You could make that clear in a regulation. You might want to set different penalties. That’s up to you.

Jones: I want to make sure all signage requirements are in the consumption area. Moves Amendment 8, all signage requirement for a retail area be displayed in a consumption area. Springer seconds.

Amendment carries 5-0.

Springer moves to amend (d) of the section to read, “not to exceed more than one gram in a single transaction...strike semicolon...add the words ‘unless prohibited by state law’. Emmett seconds.

Springer: Intent is to give supremacy to local government. If a local government prohibits, we allow them to prohibit smoking (consumption of bud and flower).

Emmett: My only reservation is potential for conflict where city councils say “we don’t want smoking” but at the same time, people will be going outside and smoking it. The authority I guess should fall on the local government.

Jones: I support anything that gives local government local control. Question for attorney, if local government protested under this, would that be arbitrary and capricious?

Milks: Springer’s amendment provides a venue for a local government to protest. Local government can always object. The board would then take that into consideration.

Springer: My intent is to allow a retail store with onsite consumption endorsement to sell for consumption on the premises, marijuana bud or flower not exceeding one gram. My amendment is strictly focused on bud and flower for consumption on the premises, and to allow local government to protect the health and safety for their citizens. This would not apply for edibles.

Springer’s amendment carries 5-0.

Jones: In the alcohol world, is there a requirement that a certain percentage of revenue come from non alcohol? Is there value in limiting the amount of floor space dedicated for consumption?

McConnell: Restaurant and Eating place licenses allow bona fide restaurants to sell beer and wine only, and 50 percent of revenue must be from non-alcohol. They are population limited.

McConnell suggests the board set parameters for outside smoking area. As set, there is nothing to say it must be hidden from view, etc. I’m not sure as it stands this is sufficient for protecting from public view.

Springer: I think this is something we will hear about in public comment. If the only thing we have to amend is limiting the outside area, we'll be pretty darn lucky. I would prefer to see what we get back from public comment. I think that will be on a case by case basis. It might be the place to put it, is in the operating plan.

Jones: If the endorsement is on the license, then those rules would apply to it. I think if we were to license them as a retail, and put this endorsement on it, then change the rules, we might be in trouble.

Emmett: Should not include specifics about obscuring outside smoking area, this is usually addressed at the local level. Our definition of public may be too strict.

Mlynarik: One of the issues may be odor. That needs to be addressed.

Emmett's amended version of the onsite consumption endorsement carries 3-2, Jones and Mlynarik vote no.

The Board recesses for lunch at 11:50 am

Mlynarik calls the meeting back to order at 1:15 pm.

Jones: Don't know how long it will take to get them out for public comment. We made some substantive changes. Recommend we put this out for comment for 90 days. That allows local government adequate time for comment. A 30 day period might be tight.

Milks: Administrative Procedures Act states it has to be a minimum of 30 days.

Loren Jones moves the Onsite Consumption regulation goes out for a 60-day comment period. Springer seconds.

Brandon Emmett: This issue has been weighed multiple times by multiple entities. Not sure how this will be helpful.

Nick Miller: Agree with Emmett. We received the first comments on this issue in October last year. If this is important enough for local governments, they will act.

Mark Springer: I don't think this is too onerous.

Miller: Municipalities would only need to put forward a resolution. They could then put forward an ordinance that would be in place prior to the regulation being adopted.

Motion carries 3-2, Emmett and Miller vote no. Onsite consumption regulation draft comment period will be open for 60 days.

B. Advertising Requirements; Space Planning and Layout; Labeling and Packaging

TAB 58

Status: Public comment period closed June 30, 2017

Potential Board Actions: Vote to adopt; OR
Substantially amend and put out for public comment

Springer: I recommend we not move forward with the advertising regulation.

Miller: Asks whether this is for labeling or just advertising?

Mark Springer agrees the Board should not move forward with advertising portion of the regulation project, based on director's recommendation.

Emmett: if this is for advertising, having these two simple statements would be better seen than the warning labels. The more warnings you put on a product, generally the smaller the font and the less people read. It might actually be more effective to have less wordy statements.

Director McConnell clarifies the regulation project addresses warnings on advertisements and does not affect warning requirements for labeling of marijuana products.

Emmett supports requiring two statements rather than the same number of warnings required on products. The more warnings you put on a product or ad, generally the less people read.

Springer moves to amend 3 AAC 306.360 as presented in the draft regulation project.

Emmett seconds the motion.

Springer moves amendment the draft language to include item 5 regarding warning for pregnant woman.

Miller seconds the amendment.

Chair Mlynarik doesn't think any warnings should be removed from advertisements.

Springer: Clearly this is an important warning. On a quarter page or 1/8th page of a newspaper, the typeface would be quite small.

Amendment carries 4-1, Jones votes no.

Vote on main motion to adopt: Motion fails 1-4. Emmet votes yes.

Mark Springer asks whether that vote killed that part of the project?

Director McConnell confirms the language in 3 AC 306.360(e) has not been adopted as part of the project in Tab 58.

Mark Springer moves to adopt amended changes to 306.925.

Emmett seconds.

Springer: I don't think this means a non-marijuana business.

McConnell: We would interpret this to mean a non-marijuana business. Board approved a similar scenario at a previous meeting.

Springer: In past, we've gotten a summary of comments. I don't think I see any comments about shared space.

The chief medical officer said it could lead to an increased exposure to marijuana. There doesn't seem to be a big outcry from industry that they need to share the space.

Emmett: I think it is helpful to have a shared use of spaces. This board approves licenses on a case by case basis. There is room to assess.

Miller: I think it helps to have a clarified regulation to support a previous license approval.

Jones: Yesterday there was a limited cultivation application I voted no. I wasn't sure the explanation of the shared space. There have been concerns the retail badge didn't let the employee have access to the cultivation. I will probably be a no vote unless we talk about non-licensed tenant, and making sure they are a licensed tenant.

Springer: We don't have a definition of shared support spaces.

Motion fails 2-3, Miller and Emmett vote yes.

Brandon Emmett moves to adopt changes to 3 AAC 306.310, acts prohibited at a marijuana store.

Mark Springer seconds.

Emmett: It appears there is a small change to only have perishable marijuana products language instead of "the marijuana or" language that is struck. To me, this seems like a bit of house keeping. If something is perishable, you want to throw it out at the expiration date. But the marijuana itself doesn't actually have an expiration date. That doesn't need to be in there.

Motion carries 5-0. The regulations project includes only the labeling portion in 3 AAC306.310.

Brandon Emmett notes public comment from JDW Counsel, which points to conflicting regulations: authority to approve is delegated to director and in another portion it is vested in board.

Mlynarik: We already addressed 3 AAC 306.015c and 3 AAC 306.705(c).

C. Quality Control

Status: One proposal for initial board consideration

TAB 59

Potential Board Actions: Amend and/or put out for public comment

Mark Springer moves to open public comment on draft changes to 306.460 and 306.557.

Emmett seconds.

Springer: When someone is developing a new strain, they need a legal way to evaluate it to get the experience description.

Emmett: I actually encountered a situation the other day, had no method to sample a product. Putting out something that has been approved and had not manufactured yet. It was for a vape pen, and not knowing how to evaluate the realistic potency without trying it out.

Jones: I wonder how close this comes to product testing? I assume a vape pen product, you could get a non-marijuana product. As a clarification question, how would a large grower decide to put effort into a certain strain, gave them all one ounce? How does that show up in METRC? Where does that show up? It still has to get recorded in METRC.

McConnell: We will have to work with METRC to implement this.

Emmett: You could enter it a couple of different ways. You could sell it for a penny and note it in the sale. As long as it is consistent with the regulations.

Springer: Don't we currently allow a cultivator to give a sample to a retailer? How is that tracked in METRC?

McConnell: Moving things from one licensee to another is allowed in the regulation.

Mlynarik: I assume there is no taxes paid on this transfer?

Jones: moves to amend the draft regulation to require samples must be packaged in an opaque child proof container with a label from the cultivator that the sample is for Quality Control.

Motion carries 5-0.

Regulation draft is approved 4-1. Mlynarik votes no. The draft will be released for public comment for a minimum of 30 days.

D. Waste Disposal

TAB 60

Status: One proposal for initial board consideration

Potential Board Actions: Amend and/or put out for public comment

McConnell: If the board has issues from last year regarding incineration, that need to be addressed they could be included in this waste disposal draft before it goes out for public comment.

Springer moves to amend draft 3 AAC 306.660 and 3 AAC 306.740 for public comment.

Emmett seconds.

Springer: We do have the ability to approve a waste disposal method. I don't think we want people lighting up a 55 gallon drum in the back yard. We should also step up and approve other methods of disposal.

Emmett: I would like to have the discussion about incineration. There are instances where incineration could be an acceptable method of disposal.

Jones: There are landfills that municipalities use incineration. If you are talking about home incineration or a burn barrel, you can't do that unless you get a permit from police. If they notify the office of waste disposal, they certify they are doing so in compliance with local ordinance.

Mlynarik: In the Kenai Peninsula Borough, they're not going to monitor it. It is more restrictive in a city. Not necessarily in a borough.

Jones moves to amend "if the mixed material can be burned in an incinerator or open burning, this method may be approved if the process is part of notice in 3 AAC 306.740 (c) and statement that all local and state permits are complied with."

Emmett seconds.

Jones: Intent is that the product has already been rendered unusable.

Springer: I would like to suggest a commercial incinerator may incinerate if transfer of the waste is manifested and an employee of the licensee accompanies the waste until it is delivered to the waste disposal stream.

Jones: We've already been asking about this from applicants and most have said they would incinerate waste that has already been rendered unusable.

Mlynarik: I don't see how the board has control of how it is disposed of once it is rendered unusable. I'm not talking about root wads. I'm thinking about the people that have a burn barrel outside of your house.

Miller: I know there are folks in some really remote areas that have trash and just want to incinerate it and not mix it with anything.

Jones amendment fails 2-3. Emmett and Jones vote yes.

Emmett moves to strike the word "roots" from the definition of waste (740 (b) (1)).

Springer seconds. Motion carries 5-0

Miller moves amendment to add "give the board written notice if waste is more than one ounce, three days before making waste unusable"

Emmett seconds.

Miller: I would defer to staff for placement in draft. Intent is for this to still be tracked in inventory tracking system. But if more than one ounce, then must notify the board through the director.

Motion carries 5-0.

Amended draft on waste disposal approved for public comment 5-0 for a minimum of 30 days.

E. Plant Count for New Cultivators

TAB 61

Status: One proposal for initial board consideration

Potential Board Actions: Amend and/or put out for public comment

Jones motion for public comment on complete draft of 3 AAC 306.405 and 990(a) as presented.

Emmett seconds.

Jones: At what point in time, will we require new cultivators to purchase their plants from licensed vendors to propagate their business? It is a question we might not need to answer here. But at some point we need to address the "blind eye" test.

Emmett: That won't happen until the federal government lifts restrictions on interstate commerce.

Currently a lot of the strains are sourced from breeders in Europe and come here on a magic seed elf and end up as legal personal plants, then become legal commercial plants. My only issue here is using "mature" for "non-flowering" plants. Technically, a plant could be 10 feet tall, but could still be a juvenile. A plant is technically not mature unless it is producing flower.

Nick Miller: If I have a friend with a strain and they have less than six plants in their personal grow, I don't see why they can't gift me two of them. Based on the number of strains, I'd like to see the ability to accept as a gift at a licensed facility. They shouldn't all have to come from a licensed facility, as long as it is tracked.

Springer: As the industry matures, as the cultivators get more successful, you might have one outfit that has six or eight strains. One of the strengths of this will be the limited cultivators who will be producing high value strains.

McConnell: This is saying that once you have your license, you may only procure new plants and new seeds from another licensee. My concern is that if you allow introduction from unknown sources, my enforcement team will have to go out and inspect unlicensed, personal grows.

Emmett: It would be great if we could come up with a regulation that allows for introduction for new plants.

Motion carries 4-1. Mlynarik votes no. Draft is approved for public comment.

F. Definition of “direct or indirect financial interest”

TAB 62

Status: Two proposals for initial board consideration

Potential Board Actions: Choose proposal to work on; AND
Amend and/or put out for public comment

Jones moves to approve for public comment Version 1 of draft regulation change on direct or interest financial interest (3 AAC 306.015).

Springer seconds.

Emmett: Not in favor of removing percentage based lease agreements. There are multiple businesses operating with these agreements. There are people who know how to grow, and people who have money. Most of the time those are two separate communities.

Jones: If I am going to make money off this licensee, as a friend, but don't want to be shown as an investor, that violates at least the spirit of the law, if not the letter.

Mlynarik: We had a licensee that couldn't get a license because he was a non-resident, but had an agreement in the lease for 30 percent of profits.

McConnell: We've had situations where people have been provided with loans for their application. We don't have the resources to do a lot of financial background checks. How will the board deal with that?

Emmett: I advocated for a percentage of outside investment from the start. Here it is extremely limited what you can do. I understand some want this to be Alaskans only, but I also understand that this industry needs new investment.

Miller: We can't have outside partnerships, but we need to allow people to use the tools available.

Milks: The Cole Memorandum addresses the issue of diversion. This isn't an attempt to control or restrict business growth. The sense behind this is to try to prevent unwanted attention from the federal government.

Licenses wouldn't be revoked based on this. Renewals would be another issue.

Emmett: We've seen businesses are not being run by cartels. That's been a fear. That fear is largely unfounded. Department of Safety in Colorado reported cartels have disappeared there. It is only the old guard here in Alaska that has money to start with. We end up with percentage lease agreements.

Motion carries 3-2, Miller and Emmett vote no. Draft approved for public comment.

G. Local Government Jurisdiction

TAB 63

Status: One proposal for initial board consideration

Potential Board Actions: Amend and/or put out for public comment

Loren Jones moves to release for public comment draft as presented to board. Springer seconds.

Springer: Does the community (tribal government) have the ability to formally protest an application?

Jedediah Smith: Local government definition refers to incorporated communities. Not unincorporated communities.

Motion carries 5-0. Draft is approved for public comment.

H. Timing of Public Objections

TAB 64

Status: Two proposals for initial board consideration

Potential Board Actions: Choose proposal to work on; AND
Amend and/or put out for public comment

Jones moves to put out for public comment version 1 draft. Emmett seconds.

Jones: Local government still has 60 days to protest a license application.

Motion carries 5-0. Version 1 will be released for public comment.

I. Notify AMCO of Crime on Licensed Premises

TAB 65

Status: One proposal for initial board consideration

Potential Board Actions: Amend and/or put out for public comment

Mark Springer moves to release draft for public comment.

Brandon Emmett seconds.

Miller: I want to make sure in the description it is clear what is being added.

McConnell: This is a new section, so it's all being added.

Motion carries 5-0. Draft is approved for public comment.

J. Promotional Activities and Advertisement

TAB 66

Status: One proposal for initial board consideration

Potential Board Actions: Amend and/or put out for public comment

Loren Jones moves to release draft as presented for public comment.

Mark Springer seconds.

Brandon Emmett: If you had a sign, half your sign would be taken up by warnings. That seems a bit ridiculous.

Nick Miller: This is for an advertisement on a product.

McConnell: This regulation is a combination of drafts from Miller and Mlynarik.

Springer moves to amend comment draft of 306.7xx (e) to include all five warnings in advertisements.

Mlynarik seconds.

Miller: Maybe we could just include three. DHHS supports "For adult use only," "don't operate equipment" and "should not be used by pregnant women" DHHS supported this language. Maybe change the amendment to include only those three warnings.

Springer: I don't have a problem going with three warnings for audio advertisements. Springer tries to change amendment to include three warnings. Mlynarik (the second) does not agree.

Jones: This is advertising a product. One of many reasons you don't see tobacco advertisements except in print is because they require warning.

Springer amendment to include all five warnings carries 4-1. Emmett votes no.

Brandon Emmett requests staff to explain intent behind prohibition on event sponsorship mentioned in the draft of 3 AAC 306.7xx(d) (3)

McConnell: Intent is to avoid argument about whether a band in the parking lot is a promotional event, and say that anything you do is on the licensed premises.

Emmett: State hockey tournament is sponsored by a beer company. It is not held at their premises. I don't want to see a situation where a marijuana business is demonized and prevented from sponsoring an event that is community building. If that scenario were to occur with a marijuana business, would that be prohibited as this draft is currently written?

McConnell confirms yes, sponsoring an activity would be prohibited.

Emmett moves to amend 306.7xx(d) and strike (3) "by holding, sponsoring, or allowing events or activities held or sponsored by others, to be conducted outside of the licensed premises; or" Miller seconds.

Springer: This provides a vehicle for the marijuana industry to support community activities. I don't believe the Cole Memo would argue against that. We're not talking about diverting money into the hands of gangs. A marijuana business, sponsoring an event, does no more to promote youth consumption than does a NASCAR sponsored car with a logo on it, or a beer truck driving down the road making deliveries.

Mlynarik: What if they were sponsoring a Pop Warner football team?

Springer: I think businesses are pretty smart. You'll see a degree of appropriateness in this. Businesses choosing to show support publically will support adult-oriented activities. I think since it is an adult product, businesses will support adult-types of activities. Certainly nothing wrong with them writing a check to the local Pop Warner football team, but I don't think you'll see Pop Warner football players wearing jerseys with "Mark's Magical Emporium."

Emmett agrees. Parents would refuse if a marijuana business wanted to put logo or name on the jersey of a 9 year old.

McConnell: One of the things we saw on April 20 was a bounce house. By striking the section, staff loses some direction on enforcement.

Emmett: If we want to regulate on their licensed premises, that is one thing. But a community sponsored event paints us as overbearing.

Springer: Intent is that the marijuana business may not encourage marijuana use. There should be a way for these businesses to be recognized in the community.

Emmett amendment carries 3-2. Mlynarik and Jones vote no.

Jones asks whether public comment draft will show sponsorship line had been struck?

McConnell says no, the draft is a new section and will read as the board amends, without tracked changes.

Milks: The public notice will read that the existing regulation is proposed to be repealed and the draft new section would be added.

Springer: By striking (3) I don't want the public to think we are giving businesses permission to encourage the sale of marijuana by holding sponsoring or allowing events.

Jones: Oh yes we are. The Alaska Brewery does not sponsor a ski event because they expect you to not drink their beer.

Main motion to release the twice amended draft carries 4-1. Loren Jones votes no.

K. Kief and Testing Trim

TAB 67

Status: One proposal for initial board consideration

Potential Board Actions: Amend and/or put out for public comment

Jones moves to release the kief and trim testing draft regulation as presented. Springer seconds.

Emmett: When you purchase trim, you get test results from bud. Trim you get with it may be less. I think this would hold the grower's feet to the fire and sell the concentrate manufacturer something that has been tested. It puts more burden on the cultivator to have more tests done.

Motion carries 5-0. Draft approved for comment.

L. Definition of "Recreation or Youth Center"

TAB 68

Status: One proposal for initial board consideration

Potential Board Actions: Amend and/or put out for public comment

Springer moves to release draft definition of recreation youth center as presented. Miller seconds.

Emmett: I disagree with this project. By striking "licensed" this makes it more broad.

Milks: Would it work to move "licensed" to be an adjective, as in "Operated by a licensed public or private organization?"

McConnell: Struggled with term "licensed." As far as I can tell, the only other license is a child care license. We license doctors, but we don't license doctors' offices. The intent of the Cole Memo is to prevent marijuana from being accessed by children. I think the board needs to provide intent on the meaning. We talked about the driver training school. They offer classes to all sorts of people. Youth go to

the grocery store. We want to separate them from all places that primarily serve youth. This draft more clearly would exempt a driver training school from being a protected land use.

Jones: I was on the board of Catholic Community Services in community. Many services were licensed to provide care for children. It was never licensed by the State of Alaska. But our grant conditions required us to fulfill certain conditions. I don't want to put this out as presented. I don't have any solutions.

Springer: Anyone that provides care and receives Medicaid essentially is licensed. The only good reason to send this out would be to receive public comment. We could get a lot of reaction or no reaction. I think we might want to think this through a little more and ask the administration to collaborate with DHHS and with licensing authority to find out how many licenses are out there. The folks we are describing as in the way of development, we shouldn't consider them as in the way.

Motion fails 5-0. Draft is not approved for public comment.

M. Testing Equipment Failure Notification

TAB 69

Status: One proposal for initial board consideration

Potential Board Actions: Amend and/or put out for public comment

Emmett moves to release for public comment draft on testing equipment failure notification as presented. Springer seconds.

Springer: This maybe could be fleshed out a little more. But if they have product they have received, should be able to return it to the source and not destroy everything.

Motion carries 5-0. Draft approved for release for public comment.

● **MARIJUANA MAILBOX**

- A. All correspondence received in the marijuana@alaska.gov inbox from April 29 – June 23, 2017.

TAB 70

● **BOARD COMMENTS**

Springer: Thank DEC for letting us use their room. A question regarding the Administrative Procedures Act: in the project phase, people have argued they are constrained in their participation.

Milks: The only blackout period is when a project goes out for comment. Before and after that, the board may comment. While you are conceiving a regulation, you can solicit information from anyone who may have input. There has to be a period of time where the public has an equal opportunity to provide comment. 30 day period must

Mark Springer: We should not encourage people to comment at the September meeting on the onsite consumption regulation.

Nick Miller: no comment

Brandon Emmett: Thank staff for their hard work. Thank the public for sticking with us. Thank fellow board members.

Loren Jones: The packet put together, and regulations with memo and recommendations was really helpful.

Pete Mlynarik: Thank you to staff. I didn't see the lack of staff reflected in the packets prepared for board.

Erika McConnell: I have heard stories of licensees including personal information (addresses, phone numbers). Wanted to know whether the board was supportive of legislation exempting certain information from the public records act.

Harriet Milks: Maybe industry members should look into a wish list of information they would like to see confidential and go from there.

Mlynarik: If there is some legislative move that affects how we do our business. There is some lines there we need to look at closely.

Springer: A lot of this same information has to go to the local government. Suggest staff to put into legislative wish list a staff member that can do enhanced financial analysis for the application process. Staff would be attached to examiner side, rather than the investigator side. Also need the legislature to more clearly define local government to include federally recognized tribe as the local government.

● **NEXT MARIJUANA CONTROL BOARD MEETING**

Agenda deadline for September 14 & 15 meeting: August 25, 2017

● **ADJOURN Meeting adjourned at 4:27 pm.**

Minutes prepared by:

Jed Smith

Local Government Specialist

Minutes reviewed by:



Erika McConnell

Director