AGENDA

CITY COUNCIL WORK SESSION

July 21, 2020

4:00 PM, City Council Chambers
130 S Galena Street, Aspen

WEBEX
Go to: www.webex.com Click "Join" at the top right-hand corner
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I. WORK SESSION

I.A. Small Business Revolving Loan Program Update

I.B. Marijuana Consumption Lounge Discussion

I.C. Council Board Reports and Council Updates

I.D. City Manager Miscellaneous Updates
TO: Aspen City Council  
FROM: Ron LeBlanc, Special Projects Manager  
THROUGH: Sara Ott, City Manager  
MEMO DATE: July 8, 2020  
MEETING DATE: July 21, 2020  
RE: Small Business Revolving Loan Program  
CC: Mitch Osur, Director of Parking and Downtown Services

Request of Council: Staff is seeking City Council direction regarding the proposed small business revolving loan program.

Purpose: The purpose of this item is to present a small business revolving loan program for City Council consideration. This is another facet of the Economic Stimulus Program approved by the City Council in April of this year.

Background: The Aspen City Council established six outcomes to strategically address Aspen's economic, social, physical, and cultural recovery from COVID-19. The Council previously directed funds for retail and restaurant rent relief. About 112 local Aspen businesses received nearly $1,000,000 from this program. A gift card program distributed $25 gift cards to Aspen residents reflecting a City contribution of $50,000 directed to stimulate local spending at retail establishments and restaurants. The proposed small business revolving loan program follows these previous actions to make available low interest loans to small businesses in Aspen.

The funding for this program, $200,000, was previously appropriated by the City Council. No additional funding is required to launch the program. The program also meets the objective of providing access to funding for locally owned businesses and locally serving businesses that may not otherwise qualify for traditional bank loans. The intent is to help business get back to sound financial footing in 4 years so they can then qualify for commercial loans through existing Aspen banks. As a revolving loan program, the loan payments will return to the fund to be loaned out again to additional qualifying businesses.

In recognition of the unique set of qualifications and expertise required to manage a successful small business revolving loan program, staff is recommending the program be managed through a contract with a qualified non-profit. Staff researched several different models to provide small business revolving loans. There are successful examples in the State of Colorado of regional economic development agencies, Councils of Government, and non-profits that manage revolving loan programs.
Staff is recommending the city contract with Colorado Lending Source (CLS). CLS is a non-profit lender with over 30 years’ experience in Colorado. Their mission is to foster the economic growth of diverse small businesses within Colorado communities. They were approved as a qualified lender for the Small Business Administration (SBA) in 1991. They participate as a lender for the Main Street USDA Loan program. Recently, CLS assisted in making PPP loans available to small businesses.

Colorado Lending Source offers a complete package. They operate an office in Glenwood Springs, and they are familiar with both the Roaring Fork Valley and the Colorado River Valley communities and businesses. By contracting with CLS, the City can modify their standard application form to suit our needs, develop loan criteria to meet City Council goals, utilize their experienced loan officers to review and rank applications, and benefit from the wisdom of an experienced loan review committee. The City will pay the 1% closing costs to Colorado Lending Source. The borrowers will not pay any closing costs. The 1% interest the borrowers pay over the 4-year life of the loan will be used to compensate Colorado Lending Source for originating and servicing the loans.

Nicole Christianson is a Senior Loan Officer working from the Glenwood Springs office. Nicole has been with Colorado Lending Source since 2007. The following link is to a podcast interview with Nicole at CoVenture in Carbondale (this describes who Colorado Lending Source is, what they do, and why they do it) https://www.veracityspace.com/podcast/episode/b97e24fb/colorado-lending-source-with-nicole-christianson.

This approach provides maximum flexibility in the future. City Council may wish to contribute more funding in the future as a second phase. Such a second phase could reflect a partnership among and between the City of Aspen, Colorado Lending Source, and local banks. The main benefit of using Colorado Lending Source for the first phase is the ability to start up quickly and to take advantage of proven CLS policies and procedures.

**Proposed Budget:** The total budget for this program is $200,000. These funds have previously been appropriated by City Council; no additional city funds are required. The estimated program budget is as follows:

- Four loans at $30,000 $120,000
- Two loans at $20,000 40,000
- One loan at $15,000 15,000
- Two loans at $10,000 20,000
- Colorado Lending Source, closing costs 2,000
- Miscellaneous 3,000
- **TOTAL** $200,000

**Loan program details:** Colorado Lending Source offers the opportunity for the City of Aspen to customize the City’s loan program. The following criteria are recommended:
✓ Business must be located within the Aspen City limits, including the Aspen Highlands ski area. (This does not include businesses located in the Aspen Airport Business Center, businesses located in Snowmass Village or the Town of Basalt, or businesses that are located in the unincorporated areas of Pitkin County).

✓ Applicants must have a valid City of Aspen Business License (or be willing to obtain a license if the loan is approved), be current with taxes, fees, utility payments, etc.

✓ Formula stores will be eligible for these loans if the owner of the local franchise resides in Pitkin County (including the City of Aspen, Town of Snowmass Village, Town of Basalt–Pitkin County portion only, or the unincorporated portions of Pitkin County).

✓ Loans will have 4-year terms.
✓ No payment for the first 6 months.
✓ 1% interest rate.
✓ $30,000 maximum loan amount.
✓ Applicants may be required to participate in financial training through Colorado Lending Source or Colorado Mountain College.

Examples of loan details:

✓ Example: $10,000 loan. Closing costs paid by City ($100). No payments for 6 months. About $240/month for the remaining 42 months. TOTAL cost to City=$10,100 (approximate).

✓ Example: $20,000 loan. Closing costs paid by City ($200). No payments for 6 months. About $481/month for the remaining 42 months. TOTAL cost to City=$20,200 (approximate).

✓ Example: $30,000 loan. Closing costs paid by City ($300). No payments for 6 months. About $720/month for the remaining 42 months. TOTAL cost to City=$30,300 (approximate).

Timeline*: Because of the economic hardship experienced by the Aspen business community with the onset of the COVID-19 pandemic, staff is recommending an aggressive timetable to implement this program.

✓ City Council work session                        July 21
✓ Complete letter of agreement               July 24
✓ Develop marketing materials                  July 31
✓ Begin accepting applications                  Aug 3
✓ First wave of applicants evaluated          Aug 3-14
✓ Initial wave of loans approved              Aug 19

*All dates are approximate.

The Council may wish to structure the discussion as follows:

• Discuss and confirm support for a revolving loan program.
• Confirm maximum loan amount, $30,000, and proposed loan amounts.
• Discuss loan program criteria. Confirm staff recommendations.
• Provide direction to staff regarding next steps.
**Staff Recommendation:** Staff recommends the City Council, by consensus, direct staff to proceed with the Small Business Revolving Loan Program as proposed.

**City Manager Comments:** Staff is presenting this program as the next logical step of the City Council's Economic Stimulus Program. Local businesses have approached City staff in expectation that this program will be approved.
Request of Council: Staff is seeking direction from City Council related to marijuana hospitality establishments.

Purpose: The purpose of this item is to facilitate a City Council discussion in response to recent requests from members of the community. Council may choose to provide direction to move towards code amendments or may choose to maintain the current status of marijuana regulation in the city.

Background: The General Assembly created the Retail Marijuana Code in 2013 in response to Amendment 64. This expanded the authority of the Department of Revenue (DOR) to include regulation of retail marijuana. Under the retail code, businesses that grow, transport, process, test and sell retail marijuana are licensed by the Marijuana Enforcement Division (MED).

During the 2019 session, the General Assembly of the State of Colorado passed HB 19-1230 Concerning Marijuana Hospitality Establishments which was signed into law by the Governor. This legislation enables local governments to "opt in" by enacting local ordinances to establish (1) marijuana hospitality business licenses, and (2) retail marijuana hospitality and sales business licenses.

The new laws do not change the existing marijuana fundamentals: (a) it is illegal to use marijuana in public; (b) it is illegal to operate a motor vehicle under the influence of marijuana: and (c) only persons 21 years of age or older can possess or use retail marijuana (medical marijuana has different requirements).

Marijuana hospitality and sales establishments must track all retail marijuana and related products from the point they are received to the point of sales, and must limit customers to
one transaction per day that may not exceed the sales limit set by the MED. Customers may leave the premises with the unconsumed product if it is properly packaged and labeled.

Applicants are prohibited from operating an establishment without both state and local government approval. Licenses are good for a period set for the licensee by the local government, not to exceed one year. There are requirements for the licensee and employees of the licensed establishment to complete mandatory annual vendor training that is approved by the MED. Serving size, potency and impairment must be included in the approved responsible vendor training. No consumption of alcohol is allowed on the premises.

The new law also creates an exception to the Colorado Clean Air Act. Marijuana smoking can occur in the hospitality space within a licensed hospitality establishment, or hospitality and sales establishment, if authorized by a local government ordinance, license, or regulation. The City of Aspen has a long history of not allowing smoking in public spaces and commercial businesses with very few exceptions. The City was a leader going back to the 1980’s in expressing concern for indoor air quality. The City now operates under the provisions of the Colorado Clean Indoor Air Act.

Other Colorado Communities: A limited number of Colorado communities have allowed marijuana hospitality establishments. According to CML, the City and County of Denver, prior to the passage of this legislation, developed its own rules for social consumption. Colorado Springs allows marijuana hospitality establishments under temporary licenses. On the Front Range, the City of Glendale allows local marijuana hospitality establishments under the new statutes.

On the Western Slope, the Town of Parachute recently passed an ordinance to allow marijuana hospitality establishments. A discussion of marijuana hospitality establishments is currently underway among communities in Summit County (https://www.summitdaily.com/news/dillon-officials-in-support-of-allowing-marijuana-consumption-lounge/). The Town of Dillon recently discussed this during a work session. Silverthorne decided not to allow these establishments and Breckenridge has not re-visited the topic recently.

The Colorado Association of Ski Town (CAST) is currently conducting a survey of its members. The results of which will be shared with the City Council as soon as it becomes available.

Hours of operation: Marijuana hospitality establishments and retail marijuana hospitality and sales establishments are permitted to operate from 10:00 am to 10:00 pm.

Municipal Code Currently Prohibits: The City of Aspen Municipal Code prohibits the operation of any public or private club or business allowing the consumption of marijuana on the premises, Sec. 5.16.160 (e) Unlawful Acts.

Marijuana Licenses currently allowed: The City of Aspen currently authorizes the Local Licensing Authority to issue the following licenses (permitted by the Retail Marijuana Code or
the Medical Marijuana Code): retail marijuana store license, retail marijuana cultivation facility license, retail marijuana testing facility license, medical marijuana center license, optional premises cultivation license, and medical marijuana-infused products manufacturing license.

Current marijuana licenses authorized: The City Clerk’s Office reports there are currently 9 valid marijuana licenses. These establishments are as follows:

- Silverpeak Apothecary
- Green Dragon Colorado
- Native Roots Aspen
- Roots RX
- Best Day Ever
- Euflora
- The Green Joint
- The Green Solution
- Buffalo Biotech (Coming Soon)

Marijuana hospitality licenses: Beginning January 1, 2020, local governments in Colorado were granted the authority to allow operation of marijuana hospitality establishments and retail marijuana hospitality and sales establishments if approved by the local licensing authority. The new statutes set forth provisions for the approval and operation of these establishments, including definitions, licensing, rules, and exceptions to previously illegal acts. Marijuana hospitality licenses and hospitality and sales licenses may not be issued for a location that has a liquor license.

Two types of establishments are allowed:

1) **Marijuana hospitality business license. C.R.S. 44-10-609.** The marijuana hospitality business license authorizes the consumption marijuana on the premises. The operation of a marijuana hospitality business requires both a state and local license. A marijuana hospitality business may operate in an isolated portion of the premises of a retail food business. The marijuana hospitality business is not authorized to engage in the manufacture of medical marijuana-infused products or retail marijuana products or to add marijuana to foods produced or provided at the retail food business.

A marijuana hospitality business licensee shall not:

a) Engage in or permit the sale or exchange for remuneration of retail or medical marijuana, retail marijuana products, or medical marijuana-infused products in the licensed premises;

b) Allow on-duty employees of the business to consume any marijuana in the licensed premises of the business;

c) Distribute or allow distribution of free samples of marijuana in the licensed premises of the business;

d) Allow the consumption of alcohol on the licensed premises;
e) Allow the smoking of tobacco or tobacco products in the licensed premises of the business;
f) Allow the use of any device using any liquid petroleum gas, a butane torch, a butane lighter, or matches in the licensed premises if prohibited by local ordinance or resolution;
g) Allow any activity that would require an additional license under this article 10 in the licensed premises of the business, including but not limited to sales, manufacturing, or cultivation;
h) Knowingly permit any activity or acts of disorderly conduct as described in section 18-9-106;
i) Permit the use or consumption of marijuana by a patron who displays any visible signs of intoxication;
j) Permit rowdiness, undue noise, or other disturbances or activity offensive to the average citizen or to the residents of the neighborhood in which the licensed premises is located; or
k) Admit into the licensed premises of the business any person who is under twenty-one years of age.
l) Sell or exchange retail or medical marijuana, retail marijuana products, or medical marijuana infused products on the premises.
m) Display and consume of any marijuana that is visible from outside the establishment.

n) The complete statute can be accessed by using this link: C.R.S. 44-10-609

2) Retail marijuana hospitality and sales business license. C.R.S. 44-10-610. The retail marijuana hospitality and sales business license authorizes the sale and consumption of marijuana on the premises. The operation of a retail marijuana hospitality and sales business requires both a state and local license. A retail marijuana hospitality and sales business may not sell any marijuana products that contain nicotine or alcohol if the sale of alcohol would require a liquor license. The marijuana hospitality and sales business may purchase its product from a licensed retail marijuana store, cultivation facility, or marijuana products manufacturer. A retail marijuana hospitality and sales business licensee shall not:
 a) Engage in multiple sales transactions to the same patron during the same business day when the business's employee knows or reasonably should have known that the sales transaction would result in the patron possessing more than the sales limit established by the state licensing authority;
b) Allow on-duty employees of the business to consume any marijuana in the licensed premises;
c) Distribute or allow distribution of free samples of marijuana in the licensed premises of the business;
d) Sell any retail marijuana or retail marijuana products that contain nicotine or, if the sale of alcohol would require a license or permit pursuant to article 3, 4, or 5 of this title 44, alcohol;
e) Allow the consumption of alcohol on the licensed premises;
f) Allow the smoking of tobacco or tobacco products in the licensed premises of the business;
g) Allow the use of any device using any liquid petroleum gas, a butane torch, a butane lighter, or matches in the licensed premises if prohibited by local ordinance or resolution;

h) Allow any activity that would require an additional license under this article in the licensed premises of the business, including but not limited to manufacturing or cultivation activity;

i) Knowingly permit any activity or acts of disorderly conduct as described in section 18-9-106;

j) Sell, serve, or permit the sale or serving of retail marijuana or retail marijuana products to any patron who shows signs of visible intoxication;

k) Permit rowdiness, undue noise, or other disturbances or activity offensive to the average citizen or to the residents of the neighborhood in which the licensed premises is located; or

l) Admit into the licensed premises of a retail marijuana hospitality and sales business any person who is under twenty-one years of age.

m) The complete statute can be accessed by using this link: C.R.S. 44-10-610

**Mobile licenses:** The same legislation that established the Marijuana hospitality business license and the Retail marijuana hospitality and sales business license also established mobile licenses.

**6-740 – Marijuana Hospitality Business: Requirements for Mobile Premises**

A. Separate License Required for Each Mobile Premises. Each Mobile Premises requires a separate Marijuana Hospitality Business License.

B. Consumption Area of the Mobile Premises. The Consumption Area of the Mobile Premises shall exclude the area designed to seat the driver and front seat passenger.

C. Requirements for Motor Vehicles Designated as Mobile Premises. A Marijuana Hospitality Business must ensure that the motor vehicle serving as the Mobile Premises of a Marijuana Hospitality Business complies with all state and local registration and permitting requirement. At each initial and renewal application, a Marijuana Hospitality Business must provide the Division with the following information regarding its Mobile Premises:
   a. Documentation that the Mobile Premises is owned or leased by the Marijuana Hospitality Business;
   b. The vehicle manufacturer/make, model, and model year associated with the Mobile Premises;
   c. The vehicle identification number (VIN) associated with the Mobile Premises;
   d. The Colorado license plate number and copy of the registration associated with the Mobile Premises. If applicable, the automatic vehicle identification tag associated with the Mobile Premises; and
   f. A copy of a valid permit issued by the Public Utilities Commission to the Marijuana Hospitality Business.

D. Local Approval Required. A Marijuana Hospitality Business with a Mobile Premises may only operate in Local Jurisdictions that have an ordinance or resolution authorizing the operation of Mobile Premises and for which it holds any required valid local license(s).
A Mobile Premises’ operation included, but is not limited to, allowing passengers to consume marijuana, and boarding or disembarking the Mobile Premises.

E. Additional Requirements for Mobile Premises. Before receiving a License for a Mobile Premises, a Marijuana Hospitality Business must establish that the Mobile Premises will be able to meet the following requirements:

1. Global position system tracking of the Mobile Premises;
2. Written standard operating procedures that address the logging of the route(s) of each Mobile Premises;
3. Video surveillance inside of the Mobile Premises, including the entry and exit points to the Mobile Premises and driver’s area of the vehicle;
4. Proper ventilation within the vehicle, which includes, if marijuana is smoked or vaped in the Licensed Premises, that air is not circulated into the driver’s area of the Licensed Premises;
5. Policies and procedures to ensure that no marijuana is possessed or consumed in the area designed to seat the driver and front seat passenger in a motor vehicle designed, maintained, or used primarily for the transportation of persons for compensation;
6. Methods to ensure consumption activity is not visible outside the vehicle;
7. Policies, procedures, or other measures to ensure that consumers are prohibited from entering the driver’s area of the Mobile Premises; and
8. Display of the Marijuana Hospitality Business license on the dashboard of the Mobile Premises,

F. Separate Place of Business. A Marijuana Hospitality Business with a Mobile Premises shall designate and maintain a fixed place of business in Colorado that is separate from the Mobile Premises. The fixed place of business does not need to be a Licensed Premises. However, if the Marijuana Hospitality Business will transport any marijuana to the separate place of business for purposes of destruction, the separate place of business shall also be a Licensed Premises and is subject to any applicable state and local licensing requirements or restrictions.

1. Shared Places of Business. Multiple Marijuana Hospitality Business Licensees with Mobile Premises may share a single separate place of business so long as the Marijuana Hospitality Businesses are identically owned.
2. Shared Premises with Another Licensed Hospitality Business. A Marijuana Hospitality Business with a Mobile Premises may designate the location of another Marijuana Hospitality Business’s Licensed Premises as its separate place of business subject to the following conditions:
   a. The relevant Local Licensing Authority or Local Jurisdiction permit a Marijuana Hospitality Business with a Mobile Premises to designate the location of another Marijuana Hospitality Business’s Licensed Premises as its separate place of business;
   b. The Marijuana Hospitality Businesses are identically owned; and
c. Record-keeping shall enable the Division and the Local Licensing Authority or Local Jurisdiction to distinguish clearly the business transactions and operations of each Marijuana Hospitality Business.

G. Business Records. All records required to be maintained by these rules must be maintained at the Marijuana Hospitality Business’s separate place of business, and not at the Mobile Premises, except that when the Mobile Premises is in operation it must maintain its current route log on the Mobile Premises.

1. A Marijuana Hospitality Business is not required to maintain records related to inventory tracking because a Marijuana Hospitality Business is prohibited from engaging in Transfers of marijuana.

H. Health and Safety Requirements. A Marijuana Hospitality Business' Mobile Premises shall comply with all relevant requirements in the 3-300 Series Rules. Hand-washing facilities, however, need not be in the Mobile Premises, but may be located in the Marijuana Hospitality Business’s separate place of business.

I. Operating Restrictions. A Marijuana Hospitality Business shall ensure that its Mobile Premises does not operate outside the state of Colorado.

Zoning and Land Use Considerations: The Aspen Area Community Plan (AACP) was adopted in 2012. Many concerns have been raised by members of the City Council and by community members concerning the commercial use mix and the viability of locally serving businesses. One way to address this is for the Community Development Department to prepare an amendment to the Land Use Code adding a new land use in the context of the community’s policy goals. There are two AACP policies in the “Managing Growth for Community & Economic Sustainability” section which are particularly relevant to this topic:

V.1 Encourage a commercial use mix that is balanced, diverse, and vital and meets the needs of year-round residents and visitors.
V.2 Facilitate the sustainability of essential businesses that provide basic community needs.

Permitting marijuana hospitality businesses would create a new use in Aspen’s commercial zone districts. There are land use and planning concepts to consider when contemplating adding a new, potentially popular land use to the community’s use mix. While municipal government does not regulate the commercial real estate market, considering the relationship between land use regulation and real estate dynamics is essential to effective land use planning. These are outlined below for Council’s consideration.

a) Consider the impacts to the community use mix before permitting marijuana hospitality uses.

b) Consider the financial impacts on commercial real estate lease rates. This a supply and demand driven market. Commercial space is available to businesses based on their financial capacity to pay market rents. Retail marijuana businesses have demonstrated a willingness and the capacity to pay Aspen’s expensive commercial rents.
c) Consider the existing number of marijuana businesses. There are currently 9 retail marijuana businesses in Aspen’s commercial zones. (See Exhibit A for a map of existing marijuana businesses in town.)

d) Consider the likely popularity of such establishments. Aspen’s economy is driven by visitors. Marijuana related businesses, while not unique to Aspen and Colorado, are not found in many other states and foreign countries. It is possible that this new use will be popular and become prevalent as similar uses in the downtown core (coffee shops, restaurants, retail, bars, retail marijuana, etc.).

e) Consider the finite amount of commercial space available in Aspen’s commercial zone districts. (See Exhibit B for map of Aspen’s commercial zone districts.) Adding a potentially popular new business use to these commercial zone districts will increase the market pressure on commercial real estate through increased demand. Increased demand without a reciprocal increase in supply will increase commercial rents over time. This may displace existing or lower yield businesses from the use mix.

Approach to this assignment: A staff task team was formed to address this assignment. Team members included: Jim True, City Attorney; Richard Pryor, Police Chief; Mitch Osur, Director of Parking and Downtown Services; Phillip Supino, Community Development Director; Nicole Henning, City Clerk; CJ Oliver, Environmental Health and Sustainability Director, and Ron LeBlanc, Special Projects Manager.

The Council may wish to structure the discussion as follows:
- Discuss the differences between the two different licenses.
- Discuss mobile licenses.
- Discuss a process for obtaining more community input, i.e. Aspen Community Voice.
- Discuss options and conditions for approval, such as
  - Prohibiting ingesting marijuana products by smoking
  - Linking the mobile license to a “bricks and mortar” marijuana establishment
  - Other conditions
- Discuss land use considerations and issues.
- Provide direction to staff regarding next steps.

Staff Recommendation: This is a public policy discussion at the City Council level, as such, there is no staff recommendation.

City Manager Comments: Staff is presenting this information in response to recent inquiries from citizens. This Work Session is intended to allow a policy level discussion among members of the governing body with staff being available to provide information.
Retail Marijuana Locations
Address
308 S Hunter St
400 E Hyman Ave
409 E Hyman Ave
2 at 106/108 S Mill St
2 at 520 E Cooper Ave
2 at 710/720 E Durant Ave
Pitkin Parcels

Retail Marijuana Locations in the City of Aspen

Sources: Esri, HERE, Garmin, Intermap, iNCREMENT P, USDA-NRCS, USGS, The GIS User Community
City of Aspen Commercial Zone Districts

Zone Districts:
- Commercial Lodge (CL)
- Commercial Core (CC)
- C-1
- Service, Commercial, Industrial (SCI)
- Neighborhood Commercial (NC)
- Mixed Use (MU)

0 0.05 0.1 0.2 Miles

Source: Esri, HERE, Garmin, Intermap, increment P Corp., GEBCO, USGS, FAO, NPS, NRCAN, GeoBase, IGN, Kadaster NL, Ordnance Survey, Esri Japan, METI, Esri China (Hong Kong), Esri (Canada), and the GIS User Community