

CANNABIS CONTROL COMMISSION

**August 5, 2022
10:00AM**

In-Person with Remote Participation via Microsoft Teams

EXECUTIVE SESSION MEETING MINUTES

Documents:

- July 30, 2022 Cannabis Control Commission (CCC) Ground Rules
- August 5, 2022 CCC Mediation Session List of Items
- July 30, 2022 CCC Process Design Work Plan
- July 30, 2022 Draft Scope of Issues
- July 30, 2022 Dynamics by Theme
- Commissioner Roy's Milford Senior Center PowerPoint
- Massachusetts Department of Elementary and Secondary Education's Advisory on School Governance
- July 28, 2021, Legislative and Executive Branch Outreach Memorandum
- Chief People Officer Erika White's December 20, 2021, Executive Director Performance Evaluation email
- Pension Reserves and Management board charter
- August 11, 2022, Cannabis Control Commission Public Meeting Agenda

In Attendance:

- Chair Sarah Kim
- Commissioner Nurys Camargo
- Commissioner Ava Callender Concepcion
- Commissioner Kimberly Roy
- Commissioner Bruce Stebbins
- Executive Director Shawn Collins
- Paralegal Sabiel Rodriguez
- Mediator Susan Podziba

Minutes:

I. Call to Order



- The Chair called the meeting to order and deferred to Mediator Susan Podziba (Mediator Podziba) to conduct the Mediation Executive Session.

II. Discussion – Mediation Regarding Commission Governance, G.L. c. 233, § 23C, and public records not subject to disclosure under G.L. c. 4, § 7 (26).

- Mediator Podziba gave an overview of the discussion items and stated that the focus of the meeting was to finalize the scope of issues.
- She asked for feedback on what should be included in the “Background” section. Commissioners and Executive Director Shawn Collins (ED) suggested detailing the Commission’s responsibilities, its structure, vision and a citation to the enabling statute. Commissioner Concepcion agreed to draft the “Background” section. Mediator Podziba asked how the term “Commission” should be used in the Charter. The ED noted ambiguity in the statute as to roles of the Chair and the ED; he hoped that the governance mediation could fix this. The ED stated that he saw himself as the operational head of the agency and that he could not direct the Commissioner’s work. The Chair noted she saw the role of the Chair as setting the public meeting agenda. Mediator Podziba asked what would be most functional to define/interpret the Chair’s role. The Commissioners and ED discussed how to distinguish the roles and Commissioner Stebbins explained the differences between the positions at the Massachusetts Gaming Commission. Mediator Podziba summarized that the Charter should delineate appointing authorities, state that Commissioners and the ED would work collaboratively, and explain that the Chair had authority over Commissioners while the ED had authority over administration of the Commission. The ED described an instance where Commissioners had directed him to take an administrative action early on in the Commission’s existence, which he stated had a negative effect on staff’s morale. Commissioners and the ED discussed the Chair’s agenda setting authority. Mediator Podziba stated that she would draft a section which reflected the Chair and ED’s roles as defined by statute and would speak to a desire to improve the culture.

The Commission took a short recess.

- Mediator Podziba went forward to review and revise the “Role of a Commissioner” slide from the “Milford Senior Center” PowerPoint. Mediator Podziba asked if the Commissioners would like to incorporate that language into the Charter in the section of roles and responsibilities. Commissioners discussed how to edit it so that it applied to all Commissioners and Commissioner Stebbins read from the Department of Elementary and Secondary Education. Commissioners and the ED discussed whether the word “constituency” should stay and who that constituency included. Commissioner Concepcion noted that Commissioners work with the ED and staff on all responsibilities outlined in the slide. Mediator Podziba noted that she would draft the “Role and Responsibilities” section and circulate it. The ED explained the need to define adjudicatory work in this section.



- Mediator Podziba went on to review the “Public Meeting Agenda Setting” section in the Scope of Issues document. The ED clarified the agenda-setting process, particularly in adding a topic that is not already addressed on the agenda. Mediator Podziba stated that she would revise and circulate the agenda-setting process including the scope of the issues, the Chair, and the ED. Commissioners and the ED discussed the agenda setting process and which parts should be included in the Charter. Mediator Podziba said she can add suggested proposals regarding circulating agendas in advance of meeting. The ED noted that they could also incorporate Standard Operating Procedures by reference.
- Mediator Podziba asked for feedback on the “Goal Setting” section of the Scope of Issues document. Commissioner Stebbins stated that he would like to allow for Commissioners to align their own goals with those of the ED. Mediator Podziba asked if the Commissioners can support the ED’s goal-setting efforts and the mechanics of doing so. The ED advocated that Commissioners should be able to combine their goals with his own, adding that he wanted to avoid competition for staff resources. The ED described how his goals had changed to become more high-level with the current Commissioners. He said this change allowed him to direct staff to achieve the new goals. Commissioners and the ED discussed the ED’s goals setting process and the way that Commissioners can influence goals and get their priorities implemented. Mediator Podziba observed that if the ED and Commission are inheriting goals from a previous round of Commissioners, that this might create tension and suggested that a more inclusive process would enable an understanding of limited resources. She noted that future Commissioners may be insistent on a particular goal and asked how they wanted to approach this issue. Commissioner Roy noted two documents had been circulated by the CPO to evaluate the ED’s performance and requested a third form to allow for goal setting in writing and the ED agreed with that process. Mediator Podziba asked if they could think of circumstances that would require a review and revision of goals. The Chair voiced that she could not see that happening, and Commissioner Stebbins noted that Public Meetings were a good forum to revisit the goals. Mediator Podziba asked: (1) if billboards fit into a specific ED goal, (2) the process of readjusting the ED goals, and (3) about possible concerns that individual Commissioners might advocate for a priority previously not in the year’s goals. Commissioner Stebbins stated that getting Licensees into compliance would fall under the goal of running a first-class agency and noted the ED goal setting process and the mid-year review process which Commissioners already had the ability to adjust. The ED cited the mid-year review process and the ability to shift goals, and how fiscal years and calendar years influence the process. Mediator Podziba discussed Commission culture, while Commissioner Stebbins suggested raising the transparency level. The Chair suggested creating a process based on what they anticipate in January, giving them the ability to adjust and the ED set forth the advantages regarding everyone being on the same cycle.

The Commission took a brief recess.



- Mediator Podziba began reviewing the “Commissioners/Staff, ED, and Leadership Team Interaction” section in the Scope of Issues document. Commissioner Stebbins wanted to ensure efficiency and that Commissioners keep the ED in the loop without adding to the ED’s workload. Commissioner Roy asked the ED if there is an issue when the Commissioners go around Direct Reports to their staff; the ED answered affirmatively. The Chair noted that her primary contact is the ED and stated that she did not know that Commissioners were meeting with Direct Reports regularly. Commissioner Stebbins said that he did but noted that he kept the ED in the loop. The ED noted that he thought that meetings with direct reports are mostly productive but cited potential tensions that meetings with staff can cause. Mediator Podziba asked if there was a preferred structure. The ED stated there was not but noted that he did not want to field every question. Commissioners and the ED discussed how interactions with staff currently worked and how to address potential tension in the Charter. Mediator Podziba summarized the issues of Commissioners selectively contacting staff to build support for a particular initiative and requests for review of conditions. The Chair asked if other aspects existed outside of conditions in terms of preparation for a public meeting. Commissioner Roy answered that she does have other issues outside of conditions and provided examples. Commissioner Camargo stated that her impression was that communications with staff in preparation for a Public Meeting was not an issue. The ED confirmed but noted that he was left out of some conversations regarding conditions. Commissioner Stebbins encouraged the Commissioners to think of a code of conduct for their behavior which could include that the ED should see all of their conditions. Commissioner Stebbins described his experience at the Massachusetts Gaming Commission and reiterated the suggestion for a code of conduct. Commissioners and the ED discussed direct interactions with staff and what might warrant the ED’s involvement, and the ED noted that what might seem like a quick task may use limited resources. Mediator Podziba asked Commissioner Stebbins what could be included in the code of conduct. He responded that it could restrict behaviors like going around the ED to find support among staff, but it would most importantly be followed to be everyone. Commissioner Camargo noted that they had found consensus on the legislative agenda, which also governed Commissioner’s behavior. Commissioners continued to discuss the proposed code of conduct and Commissioner Stebbins agreed to draft one for their review.
- Mediator Podziba asked about the interactions the Commissioners should avoid. Commissioner Roy stated that they cannot ask about an ongoing investigation and Commissioner Concepcion added they cannot mandate staff to attend an event in person due to Covid-19 precautions. Mediator Podziba asked the group about licensing. The Chair, Commissioner Stebbins and Commissioner Concepcion explained their approaches to licensing issues. Commissioner Concepcion noted that the authority for mandating masks, as resting with the ED; the ED noted that these types of questions had been a tension point. He explained that Commissioners were also restricted from speaking about threatened and actual litigation in which the Commission is a party. Mediator Podziba asked how the Commissioners



communicated with each other. The ED stated that all communications were governed by Open Meeting Law and noted the risk of serial communication.

- Mediator Podziba went on to review and revise the “Structural Mechanism for Joint Commissioner and Staff Work” section of the Scope of Issues document. The ED provided a historical perspective of working groups and noted the importance of the documented Charter. Commissioner Stebbins thought that the working group model worked and that tension existed as it related to creating a working group Charter. Commissioner Concepcion noted that she thought that the structure is helpful as the direction is clear, but she had experienced tension as well. Mediator Podziba asked a question about the structure of a working group. The ED explained that typically the sponsor was the person who started the working group and the lead worked on the day-to-day operations. He explained that he approved the formation of a working group but did not recruit the members. Mediator Podziba asked how Commissioners knew when working groups were formed, and the ED mentioned that they sometimes do not. Commissioner Stebbins suggested the ED use his part of the agenda to update everyone on that information. The ED clarified for Commissioner Camargo that he believed six Commissioner-level working groups existed at that time but was in the process of reviewing all working groups. Commissioners discussed whether working groups should be announced at Public Meetings and the ED cautioned that may not be the proper venue in light of procurement matters. He suggested posting working groups on the Commission’s Intranet. Commissioners discussed external working groups. Commissioner Roy asked if a Commissioner could apply to work on a working group. The ED described how members of working groups were assigned and noted that some working groups had an application process; Commissioners can come to him and ask for support, but he may also approach Commissioners. Commissioner Concepcion asked about who determined the structure of a working group. The ED noted how it had been handled in the past, and that nothing was final until his signature.
- Mediator Podziba reviewed the “Legislation: Developing an Agreed Agenda” section of the Scope of Issues document. Commissioner Stebbins believed the policy structure they put in place last fall worked well. The Chair asked if the working groups saw value in creating a report that covered what was accomplished in working groups. Commissioners and the ED discussed how different working group’s work had been reported in Public Meetings. Mediator Podziba asked if there was a way to determine the working group had completed their work. The ED stated that the best course was periodic check-in meetings but provided an example of sunseting a working group. He noted that the working group audit would be helpful in this respect. Mediator Podziba requested that the Executive and Legislative Outreach Strategy memorandum be provided to her. The ED brought up a lack of clarity about the role in staff in legislative outreach and provided a hypothetical in which staff’s beliefs were at odds in a legislative matter. Commissioner Stebbins asked if staff felt comfortable bringing concerns to Commissioners at a Public Meeting. The ED replied that he felt more comfortable now than he had in the past and that he occasionally objected to an item being put on the agenda. Commissioner Concepcion stated that



she did not think it was staff or the ED's role to dictate policy and suggested giving staff a chance to voice their opinion on a topic when it is presented to the Commission. Commissioner Stebbins asked the ED if he felt he had a voice in public meeting. The ED responded that he had influence in Public Meetings but noted that policy is ultimately determined by the Commissioners. Commissioner Concepcion asked if they need to develop a mechanism to prevent Commissioners from breaching agreed upon policy. The ED stated that he does not have veto authority, but he had the opportunity to opine during the agenda setting process. Commissioners and the ED discussed how the latter may weigh in on policy matters.

- Mediator Podziba finished by noting next steps and deliverables.

III. Adjournment

- Commissioner Camargo moved to adjourn executive session.
- Commissioner Stebbins seconded the motion.
- The Chair took a roll call vote:
 - Commissioner Roy – Yes
 - Commissioner Camargo – Yes
 - Commissioner Stebbins – Yes
 - Commissioner Concepcion – Yes
 - Chair Kim – Yes
- The Commission unanimously approved the motion.

