

CANNABIS CONTROL COMMISSION

**May 22, 2023**  
**10:00 AM**

**Via Remote Participation via [Microsoft Teams Live\\*](#)**

PUBLIC MEETING MINUTES

**Documents:**

- Application Materials associated with:
  - Staff Recommendations on Final Licenses
    - Indica, LLC (#MR284431), Retail
    - New Dia Fenway, LLC (#MR284222), Retail
- [Meeting Packet](#)
- Regulatory Review Discussion: Social Consumption Pilot Program
- Regulatory Review Discussion: Municipal Equity Memo
- Introductory Discussion: Commission-led Trainings
- Memorandum re: Executive Director 2022 Performance Evaluation and Salary Recommendation

**In Attendance:**

- Chair Shannon O'Brien
- Commissioner Nurys Z. Camargo
- Commissioner Ava Callender Concepcion
- Commissioner Kimberly Roy
- Commissioner Bruce Stebbins

**Minutes:**

1) Call to Order

- The Chair recognized a quorum and called the meeting to order.
- The Chair gave notice that the meeting is being recorded.
- The Chair gave an overview of the agenda.



2) Commissioners' Comments and Updates – 00:00:11

- Commissioner Camargo noted her approval to a second public meeting and to having conversations about policy.
- Commissioner Concepcion expressed looking forward to having a full Commission conversation relative to regulations. She thanked the Chair for including the Municipal Equity Working Group in the agenda. She noted the work put into the Memo and looks forward to having those conversations.
- Commissioner Roy thanked the Chair for convening the second meeting. She noted the importance of being able to address important topics without having to wait a whole month until the next public meeting. She expressed her excitement to potentially affirm Equity and Disadvantaged Business Enterprise (DBE) licenses. She commended the Host Community Agreement (HCA) Working Group and noted the submission of the HCA policies to the Executive Director. She stated the working group is looking forward to the feedback and to finalizing their draft language around HCAs. She indicated looking forward to public comment and public feedback. She thanked veterans for their service in anticipation to the Memorial Day holiday.
- Commissioner Stebbins thanked the Chair for adding the second meeting to the agenda. He acknowledged the second meetings will provide the opportunity to talk about issues, topics, and regulations. He expressed his appreciation to staff for preparing a second meeting on such a short turnaround.
- The Chair noted her excitement to come together as a group and have conversations about important issues to promote equity at the municipal level, and as a result of Chapter 180. She stated that Social Equity Program (SEP) and Economic Empowerment Applicant (EEA) licenses will be finalized at today's public meeting.

3) Executive Director's Report – 00:06:20 10:08

- Executive Director (ED) Shawn Collins noted that since this is a secondary meeting, he will provide the normal information at the June public meeting. He mentioned the continued work at the statehouse on the Commission's budget. He indicated that he would have an update on the budget by the next public meeting. He congratulated Chief Financial Officer (CFO) Adriana Leon for being named 2023 CFO of the year by the Boston Business Journal. He noted that the Commission will be receiving an award for excellence in supplier diversity in June from Governor Healy.

4) Staff Recommendations on Final Licenses – 00:08:44 10:10

- The Chair noted that there are two Final Licenses up for a vote and they will be announced together.
- Adult-Use Roster
  - The Chair noted that the roster will consist of items numbered 1 and 2, as identified on the agenda.
  - The Chair asked for questions or comments.



- Director of Licensing (DOL) Kyle Potvin noted that Indica LLC is designated by the Commission as a DBE and a Minority-Owned Business. He noted that New Dia Fenway, LLC is designated as an EE Priority Applicant.
- Commissioner Concepcion moved to approve the roster of Adult-Use Final Licenses.
- Commissioner Camargo seconded the motion.
- The Chair took a roll call vote:
  - Commissioner Camargo – Yes
  - Commissioner Concepcion – Yes
  - Commissioner Roy – Yes
  - Commissioner Stebbins – Yes
  - Chair O’Brien – Yes
- The Commission unanimously approved the Adult-Use roster of Final Licenses.

1. Indica, LLC (#MR284431), Retail
2. New Dia Fenway, LLC (#MR284222), Retail

#### 5) Commission Discussion and Votes – 00:10:40

1. Regulatory Review Discussion: Social Consumption Pilot Program
  - Commissioner Stebbins thanked colleagues for the discussion at the last public meeting on the Social Consumption Pilot project. He noted that the working group supports removing the Pilot Program due to it being burdensome and unnecessary to the work. He indicated that the working group’s approach to the regulatory framework matches the Commission’s sustained approach over the last five years, and its priority on public health, safety, and equity. He noted the working group will be thoughtful and diligent in the development of the new regulations and will learn from other jurisdictions. He stated the working group will offer sustainability and confidence in the process and create a licensing framework that provides lucrative business opportunities for applicants. He mentioned engaging a broad and diverse stakeholder group in collaboration with other agencies and partners.
  - Commissioner Camargo echoed Commissioner Stebbins comments. She thanked colleagues for asking tough questions. She noted that newsletters and social media have been utilized as a method to invite participants to share comments prior to the regulatory process. She stated they are having ongoing conversations with other jurisdictions and state agencies to gather knowledge and incorporate best practices. She indicated they are planning to host listening sessions in June and have developed a survey to collect data from potential participants in Social Consumption.
  - Commissioner Stebbins noted that some aspects of the regulatory promulgation process may need to take place after the regulatory work is done. He stated that municipalities will have to vote on a referendum or adopt their own bylaws and ordinances. He indicated that the Commission’s regulatory and licensing framework



might help guide communities into making decisions, and cities and towns may need to construct their own appropriate zoning and planning measures to allow licensees to move forward. He mentioned that the Commission has the opportunity to collaborate with partners such as the Department of Public Health (DPH) and other agencies to focus on community education and awareness. He noted how the Commission's licensing and oversight process has become more efficient over the last five years and acknowledged the team under the leadership of DOL Potvin. He encouraged the Commission to look at existing Responsible Vendor Training (RVT) programs to see what additional training may be necessary for the new licensing framework. He indicated that decisions would need to be made relative to the exclusivity period outlined in the regulations. He recommended that the Commission vote to remove the regulations outlining a Pilot Program. He indicated the regulatory and application process will be both burdensome and expensive. He stated the Pilot Program is capped at twelve communities and thirty Commission-designated areas of disproportionate impact. He noted the Commission could receive applications below or in excess of twelve which could potentially put the Commission in a position of having to reject those applications. He expressed the process may not be helpful to the Commission when its focus is on ensuring equity and opportunity to communities. He stated that this could potentially limit a community's ability to adopt Social Consumption as an integral part of their Municipal Equity plan. He commented that by standing up the Pilot Program, the Commission effectively places itself in the position of licensing communities. He indicated that the Commission's approach to the creation of the Pilot Program does not align with the voice of the legislature and the communities.

- The Chair noted the Social Consumption Regulatory working group is the most challenging of all other groups due to public safety, access, equity, and existing infrastructure issues. She also noted that she is not bound to the Pilot Program or to any infrastructure that allows the Commission to create separate licensing for communities. She indicated that the Commission's existing regulatory infrastructure has made it difficult for some participants to achieve success. She commented that the Commission will be heavily relying on the Social Equity Fund for this type of license. She suggested taking things slowly so that existing resources can be leveraged well for a smaller number of people so they can be successful.
- Commissioner Stebbins noted that he and the working group want to create a lucrative business-type license. He mentioned that the survey will go out to SEP and EEA applicants, as well as Micro-Businesses and Grower Cooperatives to gauge what they envision as a potential business model that would meet their business abilities and needs.
- The Chair asked if anyone had questions.
  - Commissioner Roy read a provision and asked a question about data collection relative to the Pilot Program.



- Commissioner Stebbins indicated that the Commission already collects data from existing licensees based on sales and that this data collection could be a component of building into the regulations.
- Commissioner Roy asked Commissioner Stebbins for his thoughts around zoning.
  - Commissioner Stebbins expressed that zoning is local control and will follow what type of licenses the Commission decides to make available. He indicated that zoning will be folded into the regulatory work, and some will be left to the local community.
- The Chair suggested looking into and comparing other jurisdictions' experiences, in particular, California and Colorado. She asked Commissioner Stebbins to elaborate on Colorado's onsite consumption and its rollout set-up/process.
  - Commissioner Camargo noted having ongoing conversations with other jurisdictions and states relative to their framework process. She indicated that Colorado is trying to figure out within their framework what license-types people want to see or apply for.
- The Chair asked Commissioner Camargo for clarification to her framework explanation.
  - Commissioner Camargo explained that Colorado has left it up to its licensees to figure out what works for them within their framework.
  - Commissioner Stebbins indicated reaching out to other jurisdictions about their Social Consumption program (SCP).
- The Chair asked a question about Nevada's SCP.
  - Commissioner Stebbins reiterated having ongoing conversations with other jurisdictions about their SCP. He indicated that Nevada made their SCP available to communities and counties and that their applications went live recently. He also noted that he met some folks at the New England Cannabis Convention (NEACANN) where they voiced their frustration at the way Colorado's SCP rolled out. He indicated that the regulatory and licensing framework will work for SEP, Micro-Business and Grower Cooperative applicants.
  - Commissioner Camargo noted that license-types, zoning, and air quality will be addressed in the regulations.
- Commissioner Roy stated the importance of building a framework and knowing the "It" before putting everything in place. She expressed needing more information as to the Social Consumption Working Group's approach to building a framework and coming up with the "It."
- Commissioner Concepcion thanked Commissioner Stebbins and Commissioner Camargo for their work on the Social Consumption Pilot Program presentation. She asked the Commissioners to be mindful and elicit stakeholders' perspective around public safety concerns when final recommendations are ready. She noted the uniqueness of this license-type and the potential it may have around community impact. She advised Commissioners to ensure provisions and regulations are in place to ascertain public health and public safety are top of mind.



- Commissioner Stebbins reiterated that the focus is to come up with the “IT” in which licensing and regulatory framework promotes public health, public safety, and equity. He also noted that everyone is welcome to join future listening sessions as they are not exclusive to only industry stakeholders or municipal officials.
- The Chair asked if there were potential alternatives to the Pilot Program that would allow the Commission to walk first and ensure that the first cohort of licensees is successful. She acknowledged that some licensees are going out of business due to limited access to resources. She suggested taking a measured approach in terms of understanding the limited financial resources available and ensuring that business plans benefit from the Social Equity Fund.
  - Commissioner Stebbins noted that the Social Consumption Working Group did not see value to the Pilot Program as it was implemented. He also expressed that the Pilot Program does not align with what the legislature raised last year in Chapter 180. He indicated that the group is interested in coming up with lucrative business-types, and potentially, business types that do not revolve huge amounts of capital. He suggested looking into the listening sessions and the survey for insight.
- Commissioner Roy suggested adding alternatives to the Pilot Program policy recommendations template and asked Commissioner Stebbins and Commissioner Camargo if they had any they would be willing to share.
  - Commissioner Camargo stated that one possible alternative is to work with municipalities and provide them the opportunity to decide for themselves if they want to opt into Social Consumption. She noted that keeping the Pilot Program or setting limitations on licensees will only create more barriers to Social Consumption.
  - The Chair interjected and expressed that the biggest barrier to licensees is access to resources. She indicated being in favor of removing the Pilot Program and finding ways to support the initial group of licensees so they can achieve success.
  - Commissioner Camargo indicated that the first step toward successful license-types is to remove the Pilot Program and allow cities and towns to decide for themselves if they want to opt into Social Consumption. She also noted finding lucrative license-types and keeping the lines of communication open with other states and folks who have already been through the process.
- Commissioner Roy asked Commissioner Camargo if she is in support of a limited phase.
  - Commissioner Camargo indicated she is in support of removing the Pilot Program.
  - Commissioner Roy asked a follow-up question.
  - Commissioner Camargo answered that a limited phase alternative to the Pilot Program is not necessary since all the guardrails are in place.



- Commissioner Roy noted she has not seen the guardrails and asked why the decision to remove the Pilot program cannot be made later down the process.
  - Commissioner Stebbins indicated that removing the Pilot Program will help the working group focus on building the licensing and regulatory framework.
- Commissioner Roy asked a clarifying question relative to the guardrails.
  - Commissioner Stebbins noted that the main focus of the working group is to build out the licensing and regulatory framework which will help to create the guardrails.
  - Commissioner Camargo clarified her definition of guardrails as being the licensing process, the heavy regulations and compliance. She mentioned that the working group is also working on other guardrails that involve public safety, public health, social justice, and social equity.
  - Commissioner Roy indicated that she would have preferred to have seen some recommended alternatives.
- The Chair questioned whether Colorado, Oregon or Nevada opened statewide from the beginning and if guardrails were in place to manage the rollout. She expressed concern about issues such as second-hand smoke and the Commission's ability to manage the rollout. She indicated not wanting to put a barrier in place and suggested that the Commission manage the rollout and leave the rest to individual communities.
- Commissioner Concepcion explained her understanding of giving municipalities the choice to make the determination whether to opt into Social Consumption.
  - The Chair noted that the Commission should not have a say as to which communities opt into Social Consumption. She indicated that communities should be allowed to explore without any barriers. She also stressed the importance of managing expectations around public health and public safety concerns. She suggested having a smaller targeted cohort to better understand the potential impact and figure out the best approach.
- Commissioner Concepcion asked a clarifying question.
  - Commissioner Stebbins noted that he hopes to answer everyone's questions relative to the "It" which is the building out of the licensing and regulatory framework for Social Consumption. He also stated that the work needs to start soon in order to move past the requirement of the Pilot Program.
- Commissioner Roy suggested having a targeted cohort by licensee-type. She asked Commissioner Stebbins and Commissioner Camargo if they would entertain this option.
  - Commissioner Stebbins acknowledged that the question asked by Commissioner Roy is worth exploring. However, he stressed that the licensing and regulatory framework cannot be addressed until the Pilot Program is set aside.
- The Chair asked the ED if he had anything to share.
  - The ED acknowledged that there is still much to be determined regarding regulations for Social Consumption. He noted that other jurisdictions can offer insight, but cautioned against assuming there is a blueprint that can be easily





adapted. He mentioned that operators are facing challenges and highlighted the importance of being nimble and agile in developing regulations. He expressed not having strong recommendations at this time but emphasized the importance of managing the process internally and being prepared for implementation.

- Commissioner Roy asked the ED to talk about public health and public safety issues.
  - The ED discussed various public health concerns related to cannabis consumption in lounge or venue settings. He talked about issues such as ventilation and combustion including vaporization and aerosolization, which can emit harmful substances in the air. He elaborated that legislature in Massachusetts permits cannabis consumption in designated combustion areas, but public health concerns for both patrons and staff need to be considered. He stated that dosing and impairment levels are also concerns, as body composition and tolerance can vary.
- The Chair asked for questions or comments.
- Commissioner Stebbins moved to approve that the Commission direct Legal staff to take the necessary steps to remove 935 CMR 500.050(6) (a)(b) and related mentions of the Social Consumption Pilot Program through the appropriate regulatory process. He directed Commission staff to take the necessary steps to rename 935 CMR 500.0506 as Social Consumption License.
- Commissioner Camargo seconded the motion.
- The Chair took a roll call vote:
  - Commissioner Camargo – Yes
  - Commissioner Concepcion – Yes
  - Commissioner Roy – Present
  - Commissioner Stebbins – Yes
  - Chair O'Brien – Yes
- The Commission approved the motion by a vote of four in favor and one present.

## 2. Regulatory Review Discussion: Municipal Equity Memo

- The Chair noted that she and Commissioner Concepcion have been leading the Municipal Equity Working Group. She indicated that the group has been working on finding ways for municipalities to incorporate equity into their Host Community Agreement (HCA) awarding process. She mentioned that as of July 1, communities will be under statutory requirement to consider equity in their HCAs. She noted that the Municipal Equity Memo is a set of best practices to promote equity, transparency, and fairness within the process. She indicated that additional funding will be available to those communities with equity retail licensees. She also warned of potential penalties given to licensees for failing to incorporate equity into their HCA and zoning process.
- Commissioner Concepcion expressed gratitude to the Chair and team for their input and time spent on the memo. She acknowledged that the memo is a starting point, and





that the Commission will have the opportunity to provide their input before finalizing it. She indicated the memo is intended for Host Communities to prepare for expected changes to the Commission's regulations but does not invalidate other resources previously made available by the Commission. She stated the purpose of the memo is to help Host Communities understand the changes that they can expect, and it is being released quickly because municipalities must establish initial equity procedures and policies by July 1, under Section 25 of the new law. She clarified the memo is not exhaustive and does not cover all considerations that will be included in the regulations. She acknowledged that there are some quality control issues with the memo, including grammatical and factual errors, and that the Communications Team will make the necessary edits before its official release. She noted she plans to ask the Communications Team for their perspective during this meeting.

- The Chair asked if anyone had any questions. She noted the memo covers several important items.
- Commissioner Concepcion asked Chief Communications Officer (CCO) Cedric Sinclair for his perspective on the Commission's guidance around an applicant's eligibility for the SEP and EEA programs.
  - CCO Sinclair noted that the Equity Programming Community Outreach Team is focusing on two aspects of the memo, specifically the part that instructs municipalities to contact the team for verification of individuals who have gone through the SEP, and those who may be eligible for it. He also noted there is a need for clarity on the memo's precise intention and whether the relationship should be with the municipality or the equity participant. He expressed that two potential considerations in how the team would approach this work are a year-round review or ongoing verifications. He indicated that the team wants to ensure equity participants are in control of their status, and that the Commission's values and interpretation of equity are at the forefront of the review. He stated that the Commission receives outreach from several communities on behalf of one participant, and indicated this could be avoided by providing participants with materials to verify eligibility themselves as they go to different municipalities.
  - CCO Sinclair acknowledged that the second aspect to the memo centers on how the impact of a new operational function related to equity status may affect staffing resources. He expressed human resources will need to be assessed and adjusted to support the new function effectively. He indicated the team has experience with a similar review process, but recognized the process can be time-consuming and may require resources from other departments. He noted there is a need for a thorough documentation review to understand eligibility criteria, and acknowledged the Commission is missing an opportunity to utilize available resources to help municipalities understand the criteria for equity status. He mentioned the team is concerned that a significant influx of reviews may impact human resources and potentially delay other priorities.



- The Chair discussed reducing barriers for equity applicants by implementing pre-certification in several jurisdictions to make it easier for applicants to approach communities and demonstrate their business potential. She stated the Commission should take on this responsibility rather than leaving it up to communities. She mentioned the Commission already has a list of participants who have gone through the programs and noted it should be fairly simple to make that list available on a website. She acknowledged this approach would lower a barrier for equity applicants and make them more attractive to potential investors.
- Commissioner Concepcion clarified that an applicant's eligibility to the SEP would be determined by the Commission rather than municipalities. She indicated that with that determination, the applicant can notify the municipality so they can be granted access to resources. She noted that eligibility would be based on certain criteria such as being from a disproportionately impacted area, having a prior conviction or a family member also with a prior conviction. She indicated that the Commission is developing pre-certification for all equity applicants and not just for Delivery or Social Consumption applicants.
  - CCO Sinclair suggested making some minor changes to the memo. He proposed working with the ED to ensure a reasonable verification process for those who have already been accepted into the program.
- Commissioner Camargo expressed concern about the clarity and practicality of the memo. She suggested that some information needs to be cleaned up such as typos and data. She also raised questions about the verification process for Social Equity applicants. She posed a practical question about how the verification process would work for someone who is not a current Social Equity applicant but intends to become one in the future, and asked how this would work operationally on a local level.
  - Commissioner Concepcion explained that the law requires municipalities to have equity provisions that support Social Equity businesses. She indicated that even if an individual has not gone through or been accepted into the SEP, they could still be considered a Social Equity business under the law, if they meet eligibility requirements, such as being from a disproportionately impacted area or having prior convictions. She noted that while an applicant may have access to local benefits, they may not necessarily have access to the benefits of the SEP itself.
- The Chair noted that given the statute, it does not appear that the language can be stricken. She suggested updating the website to ensure that communities can easily find the list of eligible applicants with access to the program.
  - CCO Sinclair provided context as to why there is not a list of those applicants on the website. He suggested the possibility of allowing applicants to decide if they want their names publicly accessible.
  - The Chair noted that updating the website and making the list available to communities is feasible but acknowledged that it may require some effort from the team.



- CCO Sinclair noted that the language in the Memo alluding to a substantive review before the regulatory period could not be stricken as it would set a false expectation for municipalities.
- Commissioner Concepcion asked the CCO to clarify that his concern is specifically based around the language in the Memo.
  - CCO Sinclair clarified that he wished to avoid including language in the Memo that suggests the measure will be operationalized by July 1, as it would pose an undue challenge.
- Commissioner Camargo thanked CCO Sinclair for his foresight. She noted that whatever they put out as guidance on the Memo must be worded very intentionally. She recommended including key language on guidance for Municipal Equity. She noted that this information is featured on the agency website. She encouraged spotlighting a wider array of communities.
- The Chair noted that they are trying to get something done quickly. She mentioned the challenge of establishing guidelines that can be effectively implemented by communities of all sizes.
- Commission Concepcion thanked Commissioner Camargo for her suggestions. She noted the foremost purpose of the memo is to give municipalities insight into the direction the Commission is going in.
  - Commissioner Camargo thanked Commissioner Concepcion for the clarification. She noted that she is thinking with all cities in mind.
- Commissioner Camargo inquired about the due date for the Memo, and if a final draft will be ready for a vote by the next meeting.
  - The Chair expressed a desire for a vote to take place at today's public meeting, but acknowledged that if a vote cannot be held, then it can be deferred until the next meeting.
- Commissioner Roy thanked the Chair and Commissioner Concepcion for all their work and thoughtfulness. She suggested to include a "carrot and stick" reminder in the Memo about the incentives of compliance and possible repercussions of non-compliance.
  - The Chair noted that a change was made to add the incentives and that the "stick" will need to be added. She clarified that the Commission does not directly oversee compliance.
  - The ED offered strategies for moving forward with a vote on the Memo given the time constraints.
- Commissioner Stebbins thanked the Chair and Commissioner Concepcion for their efforts. He noted feeling apprehensive about the timeframe and stipulations. He stated that he was pleased to see business and economic development strategies in place. He added that he is to endorse the Memo and move things along to the final phase and into the hands of the communities. He noted that the recommendations are meant to serve as a placeholder until the regulatory framework is complete. He discussed ideas for expanding on the applications of the Memo.



- Commissioner Concepcion stated that Commissioner Stebbins raised a good point about the Memo serving as initial guidance.
- The Chair added that the initial Memo is about providing “low hanging fruit” measures that communities can implement around supporting equity businesses throughout the application process. She stated that the Commission cannot tell municipalities what to do. She noted that this is first step.
- Commissioner Stebbins noted that he appreciates the creativity that has gone into the Memo to get communities thinking. He added there are unique opportunities around how to incentivize communities.
- CCO Sinclair clarified that the Communications Team has not yet reviewed the Memo.
- The Chair asked for questions or comments.
  - Commissioner Camargo echoed earlier sentiments about incentives and producing the Memo to communities with efficiency. She reiterated her earlier suggestions for additions.
- The Chair asked Commissioner Concepcion if she would move to approve the memo pending edits.
- Commissioner Concepcion moved to approve the Memo to be distributed to municipalities.
- Commissioner Roy seconded the motion.
- The Chair took a roll call vote:
  - Commissioner Camargo – Yes
  - Commissioner Concepcion – Yes
  - Commissioner Roy – Yes
  - Commissioner Stebbins – Yes
  - Chair O’Brien – Yes
- The Commission unanimously approved the Memo to be distributed to municipalities.

Commissioner Camargo moved to take a ten-minute recess.

- Commissioner Roy seconded the motion.
- The Chair took a roll call vote:
  - Commissioner Camargo – Yes
  - Commissioner Concepcion – Yes
  - Commissioner Roy – Yes
  - Commissioner Stebbins – Yes
  - Chair O’Brien – Yes
- The Commission unanimously approved taking a ten-minute recess, returning at 12:20PM (02:21:31)



### 3. Introductory Discussion on Commission-led Trainings

- Commissioner Roy expressed the desire for more in-person trainings. She noted that within the constraints of the Open Meeting Law, trainings are one of the few circumstances aside from public meetings under which the entire group can get together. She noted working with the Legal Team to procure more training opportunities, which are forthcoming.
- Commissioner Concepcion suggested listing the Commissioner or staff member leading the discussion for each agenda item of the public meeting in the future.
- Commissioner Roy proposed giving a secretary's report during meetings on a quarterly basis, and asked whether it would be helpful.
- The Chair agreed that giving a secretary's report could be helpful and suggested discussing it further.
- Commissioner Roy noted that reminders with embedded links have been sent to ensure everyone stays compliant with their mandatory trainings.
- Commissioner Camargo offered to send suggestions to Commissioner Roy about group trainings.
- Commissioner Stebbins noted that he would appreciate the opportunity for group trainings with other staff so that everyone is on the same page.
- Commissioner Roy thanked the Legal Team and AGC Michael Baker for his assistance with facilitating the trainings.

### 4. Executive Director 2022 Performance Evaluation and Salary Recommendation

- Commissioner Stebbins noted that this will be the first year utilizing the new evaluation form to assess the ED's performance and progress toward meeting his goals. He thanked his colleagues for their endorsement of this new process. He mentioned the ED's forthcoming mid-year update on the progress of his 2023 goals. He gave an overview of the 2022 end-of-year performance evaluation protocol and noted having met with the ED and Acting Chief People Officer Justin Shrader (Acting CPO Shrader) to determine a salary recommendation consistent with the outcome of that evaluation. He disclosed that the ED scored as fully demonstrated in job performance and critical skills. He noted the review was overall positive, particularly in the areas of communication, delegation of tasks, decisiveness, and more. He added that the ED was allowed the opportunity to respond and that his response is included in the summary. He reiterated that this is the first year implementing the new evaluation process and welcomed any feedback. He mentioned that the suggestion has been made to align the Performance Management System with the fiscal year. He underscored the difficulty of the ED's job, as well as the importance of assessing his performance in the role effectively and fairly. He noted that the process calls for designating a Commissioner to take point on overseeing the review. He requested that the Commission adopt a 3% increase retroactive to January 1. He asked for the ED to produce his professional development plan to the Commission by July 31. He invited comments or questions about the review.



- The Chair asked for comments or questions. She thanked Commissioner Stebbins for undertaking the performance review. She proposed holding an executive session so the group can speak candidly and openly with the ED about his performance, since any feedback submitted as part of the evaluation is anonymized. She stated that the ED has demonstrated great intellect and legal reasoning. She noted that one of the issues she raised in her review is the importance of the ED leading from the top down. She thanked the ED for his hard work in the role. She expressed the desire to formally reflect on and assess the state of the agency today, after five years since its inception. She emphasized the need to make sure that the Commission's resources are being utilized optimally.
- Commissioner Roy thanked the Chair and recognized Commissioner Stebbins for facilitating the evaluation. She expressed agreement with the Chair's proposal to discuss the review in executive session.
- Commissioner Stebbins offered additional context about how feedback from the performance evaluation is conveyed to the ED and within the Summary. He noted that he reviewed all the feedback with the ED and Acting CPO Shrader.
- Commissioner Camargo suggested incorporating a "360 review" as part of the evaluation going forward. She explained that it was a challenge to properly evaluate the ED since their work together is limited and her assessment would have benefitted from additional perspective. She thanked Commissioner Stebbins for his efforts and the ED for his cooperation.
- Commissioner Concepcion asked whether the ED would be given an opportunity to comment.
  - The Chair responded that the ED would have an opportunity to comment.
- Commissioner Roy acknowledged that leading the performance evaluation process is labor intensive and proposed that two Commissioners share the duties moving forward.
  - Commissioner Stebbins thanked acting CPO Shrader for all his assistance with the evaluation. He added that he will need to consult with the Legal Team about the possibility of two Commissioners collaborating on the review.
  - Commissioner Concepcion noted that the suggestion had been made in the past and cited the Open Meeting Law as a plausible concern.
- The Chair invited the ED to comment on the performance evaluation process.
  - The ED acknowledged that the Commission's feedback is crucial to the collective success. He thanked Commissioner Stebbins for serving as an ambassador of the Commission. He stated that the comments and feedback are invaluable to him. He noted that the performance evaluation has changed and evolved over the years. He welcomed the opportunity to check in with the Commissioners individually as needed and added that feedback on his performance should be ongoing. He acknowledged that he is central to the Commissioners' reflection on where the agency is headed. He added that he



has internalized all the feedback for the purpose of his own reflection and hopes that it is apparent in his response to the evaluation.

- The Chair noted that she understands how and why the evaluation process is limited by the Open Meeting Law. She reiterated that one thing she feels is missing is the opportunity for the Commissioners to speak openly in executive session without violating the Law. She expressed that it will be important to incorporate this function into the review process going forward. She underscored the value of hearing the perspectives of the other Commissioners.
- Commissioner Roy asked if they should align the evaluation with the fiscal year and if now is the time to establish that practice.
  - Commissioner Stebbins noted that he is open to the possibility. He posed a question about how the ED would achieve his goals at the start of the year without knowing what resources will be available in the second half. He pondered the effect that the change would have on the rest of the staff, who are evaluated in step with the calendar year and whether a sweeping change would be needed.
  - The Chair noted that aligning the evaluation with the fiscal year might not be necessary for everyone and asked the ED for his thoughts on the matter.
- Commissioner Roy asked the ED for his thoughts on adjusting the timing of his performance evaluation and those of staff.
  - The ED replied that the evaluations should be in alignment with his and the staff's goals, so timing them according to the fiscal year makes the most logical sense. He offered an example of how the current model presents a logistical challenge when setting department goals. He discussed a possible way to make the transition with minimal disruption.
- Commissioner Concepcion asked a clarifying question about why it is not the appropriate time to go into executive session.
  - The Chair clarified that notice of the executive session needs to be posted first. She noted that there are few opportunities for the Commissioners to meet with the ED and have the frank discussions needed to ensure they are all on the same page.
- Commissioner Concepcion asked if they would have the opportunity to enter executive session at the next meeting.
  - The Chair reiterated that notice would need to be posted first.
- Commissioner Roy expressed the desire to enter executive session to be able to speak openly about aspects of the review that may be considered sensitive.
  - The Chair responded that she is hesitant to use the word "sensitive" because of the negative connotation. She maintained that the purpose would be more about the group getting on the same page. She suggested that the executive session take place during the next meeting and that the framework be incorporated formally into the performance evaluation process.
  - Commissioner Roy responded that negotiating the Executive Director's salary is sensitive, but that she acknowledges the negative connotation.





- Commissioner Stebbins offered a reminder that everything said in executive session will later be public information. He added that they should consider the appropriate vehicle to provide additional feedback and guidance to the ED. He echoed the Chair's sentiments about getting on the same page as a group and added that it would benefit the ED to know where they are coming from collectively.
- Commissioner Camargo stated that she would welcome the opportunity to revisit the conversation about aligning the evaluation with the fiscal year. She added that it will be important to be on the same page as a group about how to best implement that change and mitigate any operational disturbances.
- The Chair raised the possibility of entering into executive session at the beginning of the negotiation process so that the group can get on the same page, while ensuring to abide by the Open Meeting Law.
- Commissioner Stebbins noted that he agrees with consensus that there is a need to shift the ED's goals to align with the fiscal year. He expressed that further discussion is needed and that he would like the new CPO to weigh in on the process. He reasoned that a thoughtful conversation can be had without going into executive session and expressed reservations about a "360 review." He asked the Chair a clarifying question about her earlier remarks on salary recommendations.
- The Chair noted the need to establish a starting point for the performance review and salary recommendations. She discussed the possibility of a "360 review" of how the organization functions. She opined that the Commission being remote three out of the five years since its founding has resulted in a host of problems. She raised the question of how the group might begin negotiations by setting goals that are clearly defined and measurable. She remarked on the need to fine-tune the process for setting expectations for the ED.
- Commissioner Stebbins noted his agreement with the Chair's sentiments. He stated he would like a motion to be put forth for the approval of the ED's 3% salary increase.
- Commissioner Camargo asked the ED about the estimated timeline for hiring a new CPO.
  - The ED responded that the Commission is holding interviews this week. He noted the importance of finding the right fit, but that they are pursuing the matter with urgency.
- Commissioner Roy asked the ED to comment on the Commission's plan for returning to in-office work.
  - The ED noted that although the agency has been largely remote, key staff has been in the office and in the field throughout the pandemic. He added that the process of returning to the office is underway. He further noted that the agency has outgrown its headquarters space in Worcester. He explained that the majority of staff are investigators out on the field that do not require



dedicated desk spaces. He expressed that staff will be given sufficient time to prepare for return to office. He stated that he hopes to have a final plan in place by September. He thanked Commissioner Roy and Commissioner Concepcion for their contributions to the process.

- The Chair asked to confirm the total number of employees at the Commission.
  - The ED estimated the total number of employees to be between 112 and 115.
- The Chair asked the ED to confirm how many seats are available between the Worcester headquarters and Boston satellite office.
  - The ED replied that he will provide the Chair and Commissioners with the specific number.
- The Chair asked if anyone had additional questions.
  - Commissioner Roy asked if the ED had announced the return-to-office date with staff.
  - The ED replied that the return-to-office date is September 11, and that it will be on a hybrid basis.
- The Chair asked for questions or comments.
- Commissioner Stebbins moved to approve the ED's 3% salary increase.
- Commissioner Camargo seconded the motion.
- The Chair took a roll call vote:
  - Commissioner Camargo – Yes
  - Commissioner Concepcion – Yes
  - Commissioner Roy – Yes
  - Commissioner Stebbins – Yes
  - Chair O'Brien – Yes
- The Commission unanimously approved the ED's 3% salary increase.

6) New Business Not Anticipate at the Time of Posting – 03:17:16

- No new items were identified.

7) Next Meeting Date – 03:17:24

- The Chair noted that the next meeting would be on June 8, 2023.
- Commissioner Roy asked a clarifying question about how “new business” is defined and what is allowed to be voted on under new business.
- The Chair noted forthcoming open meeting training.
- Commissioner Stebbins asked the Chair if she has a date in mind for the next policy public meeting.
- The Chair explained that the Commission holds regular public meetings where a comprehensive array of topics are covered and second meetings focused on the discussion of policy matters and sharing ideas. She underscored the difficulty of working collaboratively within the confines of the Open Meeting Law. She noted the need to work with staff on setting a convenient date for the second meeting. She



- added that the working groups are in the throes of regulatory writing which will need to be taken into consideration.
- Commissioner Camargo echoed Commissioner Stebbins' earlier sentiments about the policy meetings allowing them further opportunity for collaboration. She reinforced the Chair's remarks about timing the meetings with consideration of the preparatory effort involved as well as the group's individual commitments.
  - The Chair noted for the public that part of the rationale behind the Commission adopting a hybrid/remote work model is to be sensitive to the demands on the staff. She added that the return-to-office details will be worked out.

8) Adjournment – 03:23:04

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

