

CANNABIS CONTROL COMMISSION

September 13, 2022

**In-Person with Remote Participation via Microsoft Teams**

EXECUTIVE SESSION MEETING MINUTES

**Documents:**

- 20220908 Scope of Issues
- 20220912 Draft Charter V2
- Discussion Items for Executive Session

**In Attendance:**

- Chair Shannon O'Brien
- Commissioner Nurys Camargo
- Commissioner Ava Callender Concepcion
- Commissioner Kimberly Roy
- Commissioner Bruce Stebbins
- Executive Director Shawn Collins
- Paralegal Sabiel Rodriguez
- Mediation Vendor 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 reviewed the agenda, summarized the completed work since the last executive session and described next steps.
- Mediator Podziba requested feedback on the “Communications” section of the Scope of Issues document. Commissioner Stebbins noted the importance of the Commission speaking with one voice and for the Chair to serve as a spokesperson. Commissioners Concepcion, Roy, and Camargo discussed the legislative outreach strategies which had



been implemented to better serve the Commission and allow Commissioners to speak to issues as individuals. Mediator Podziba noted that there was a separate Legislative and Executive Branch Outreach section and asked for an explanation of media scrums following public meetings. Executive Director Shawn Collins (ED) gave a historical overview of Communication outreach and why the Commission adopted its current strategy. The ED noted the historical difficulty in finding consensus on responses to press inquiries and stated that one of the purposes of conducting mediation was to determine a better process. Mediator Podziba asked for suggestions on how to determine the order of who spoke. Commissioners Camargo and Concepcion stated that they thought the current process for determining order worked and was fair. Commissioner Roy noted that if a Commissioner chose to speak in a different order then they were not given the opportunity to speak at all. Commissioners and the ED continued to discuss and reached consensus that the current policy worked as they could not provide for every circumstance and still had the option to speak to the media outside of the scrum. Commissioner Camargo suggested the next scrum would likely be about the Chair and the Chair explained that she would not participate. Mediator Podziba asked if the Commissioners were relying on the current process. Commissioner Stebbins affirmed and noted the need for flexibility in the process. The Chair expressed that she was not comfortable with delegating the process to the Communications team and preferred to delegate the process to the ED. The ED explained the approach overall and who decided strategy, commenting that in the past that staff would typically consult with Commissioners prior to creating strategy. Mediator Podziba asked how this should be reflected within the Charter. Commissioner Camargo cautioned that horse-trading could occur during the process. The Chair noted that she believed there are separate staff issues and Commissioner's issues. She stated that her desire was for the language to allow for staff to manage the approach while leaving authority with the Commissioners. Mediator Podziba asked if the current process was a written policy and the ED noted that it was, but it may not be in the form of a finalized Standard Operating Procedure (SOP). Mediator Podziba asked if the Commissioners would be comfortable with adding language to the Charter which noted that the process was fair and balanced. Commissioner Concepcion asked about whether Commissioner's authority in the process would be included. The ED noted that if they removed staff from the process then the Commissions would no longer be relying on them as strategic advisors. He stated that the Commissioners could ask the ED to develop an SOP while retaining the Communications team's ability to advise the Commissioners. The Chair asked if the ED agreed with the Commissioners delegating the process to him and he affirmed. Mediator Podziba noted consensus and explained that she would draft language for this section. Mediator Podziba asked to move to review the subject of external communications. The ED read disclaimer language for Commissioners to use when speaking in their own capacity and explained how the language may be helpful. The Commissioners agreed with implementing the suggested language into the Charter.

- Mediator Podziba asked if there were any other topics the Commissioners wanted to raise regarding Communications and Commissioner Roy asked if social media should be addressed. The Commissioners discussed the type of accounts which were considered



official, what was open to the public but not official, and what constituted a public forum. The ED provided a historical overview of how previous Commissioners had handled social media and the first amendment implications of blocking individuals from official accounts. Commissioners discussed including disclaimer language in their social media posts and how it should be included as well as decorum on social media. The ED suggested incorporating the employee handbook by reference.

The Commission took short recess.

- Mediator Podziba asked for feedback on what should be included in the “Budgeting and Budgeting Process” section in the Scope of Issues document. The ED stated the statutory responsibilities of the Treasurer and Commission’s requirement to abide by the Commonwealth’s fiscal process should be included. The ED described how he worked with Commissioner Camargo to better define the role of the Treasurer and Mediator Podziba recommended tabling that topic and focusing on establishing fiscal priorities. The ED discussed the budgeting process, which was in development, and noted that he was seeking budget requests for the next two fiscal years to make department heads more forward-thinking. He provided an overview of the process, how Commissioners would be involved and stated that, while there may be disagreements, he thought it was a good process. Mediator Podziba asked how this process should be reflected in the Charter. The ED stated that the process could be developed into an SOP for budgeting and that he could leverage the legislative outreach process which Commissioners had developed. Commissioners and the ED discussed how to allow for Commissioner input in the budget process while keeping in mind the needs of competing departments. Commissioner Camargo noted that drafting the Charter had been a learning experience and suggested including timelines for the budget process in the document. Commissioner Camargo asked the ED if the goals should be set to a Fiscal Year timeline. The ED explained his preference would be to keep it aligned with the calendar year. He noted that prior goals were task oriented whereas more recent goals centered around five-year planning initiatives. Commissioner Concepcion asked whether the ED evaluated the goals of the department when making budget recommendations. The ED confirmed and explained his analysis. Commissioner Concepcion noted that it was not clear when the performance goals were discussed that it related to the budget. Commissioner Roy asked if Commissioners should vote on the ED’s budget recommendation. The ED confirmed and noted the role of the Chief Financial and Accounting Officer (CFAO) and Director of Government Affairs and Policy in presenting the budget information to the Commissioners. He suggested a process where he could solicit Commissioner’s input at the beginning of the budget development process and then circle back to them after speaking with staff before a Public Meeting. Mediator Podziba asked whether voting on Executive and Legislative Outreach Strategy and budget simultaneously was necessary. The ED confirmed and noted the timing of the budget. He made a recommendation to revisit the Commission’s budget request after the legislature voted on the items to explain the cuts and shifts in fiscal priorities. Commissioners and the ED discussed how to include the CFAO in the budget process and to further define the role of the Treasurer.



Commissioner Concepcion advocated for an additional conversation with Commissioners before the final budget was produced in order to give Commissioners enough time to pivot if their budget request is not allocated by the legislature. The ED suggested a mid-year check-in related to the budget in a public meeting. Commissioner Concepcion noted her desire to build the mid-year check-in into the budget process. Commissioner Camargo and Commissioner Stebbins agreed. Commissioner Concepcion asked whether the ED would know the amount likely allocated by that point. The ED confirmed that he would know generally but explained the difficulties of projecting the overall budget. Commissioner Concepcion asked the ED whether the contracts would be completed by the mid-year check-in. The ED discussed how he worked with the Legal department to push contracts through with vendors and the process of reallocation of funds.

- Mediator Podziba moved to review the “Accountability/Checks and Balances” section in the Scope of Issues document and asked Commissioners what they would like to be included. The ED noted his preference to reference the employee handbook to indicate that Commissioners were bound to same document as staff. Commissioner Roy asked if it was necessary to have a policy of how to run a Public Meeting in the event of a vacancy. Mediator Podziba read the statutory language regarding the Chair’s absence and cited the gap in the statutory language. Commissioner Stebbins noted his experience at the Massachusetts Gaming Commission where it was an informal appointment. The Chair suggested that the Secretary could act as Chair in the Chair’s absence if no informal appointment occurred which could be formalized with an SOP. Commissioners discussed the legal implications and the need to have a plan in the event of the Chair’s absence. Commissioner Roy suggested adding this responsibility to the section defining the Secretary’s role. Mediator Podziba summarized that if no Commissioner was designated by the Chair that the Secretary would become the Acting Chair. Commissioner Camargo noted she was not fully on-board at this time.

The Commission took short recess.

- Mediator Podziba requested the Commissioners discuss accountability checks and balances. She reiterated the conversation and asked if there was consensus. Commissioner Camargo asked why the Secretary would serve as Acting Chair role as opposed to the Treasurer. Commissioner Stebbins suggested the possibility of a Vice Chair. The Chair noted that it should be the Chair’s prerogative on whether there should be a Vice Chair. Commissioner Concepcion noted that the responsibilities of an Acting Chair aligned more with the Secretary because they documented the Public Meetings. The Chair suggested that she could appoint a Commissioner to act as Chair in her absence at the beginning of the year. Commissioners and the ED discussed the benefits of formalizing this process. Mediator Podziba asked if the “Removal of a Commissioner” subsection was necessary. The Chair noted that the power remained with the appointment authority and that it should not be included in the Charter. Mediator Podziba asked what the process was to remove a Commissioner and who would turn to an appointing authority to enact a removal. The ED stated that he wanted to discuss the severity of a situation which warranted reporting to a Commissioner’s appointing authority. The Chair



stated that they needed to decide what behavior would constitute a dereliction of statutorily mandated duties and the ED noted that he wanted Commissioner to be notified of any reporting or investigations of behavior which could lead to reporting. Commissioners and the ED discussed the current ambiguity in what behavior warranted reporting to appointing authorities. The ED advocated for developing a process which the ED could not abuse and to refine the notice process to Commissioners. Mediator Podziba asked if the notification process was always triggered by a complaint. The ED responded that the notice would be issued depending on the situation. The ED discussed ways that he handled different types of conflicts among staff and Commissioner Concepcion noted that any investigation should be independent. Commissioner Concepcion asked how it was determined that something rose to the level of an independent investigation. Commissioner Stebbins noted the statutory language used the term guilty which indicated to him that an investigation occurred. Mediator Podziba asked whether an independent investigation is triggered upon every complaint or whether an in-house analysis could be done first to verify the complaint's merit. The Chair asked if there could be a self-assessment involved and noted her worry about delegating the responsibility to the staff. Commissioner Concepcion asked if executive session may be a forum to discuss these issues. The ED noted the potential conflicts of resolving issues involving the Chair through Executive Session, which the Chair could refuse to put on the agenda. Commissioners and the ED discussed who should be noticed of complaints and allegations regarding Commissioners. The ED stated that he wanted his role in the process to covered so that the Charter protected the process. Mediator Podziba asked to table the discussion and for Commissioner Stebbins and the Chair create a draft version of this section. Commissioner Roy asked a clarifying question regarding the absence of a Chair during the regulatory review. The ED provided an overview of the process of public hearing sessions that occurred during the last few regulatory rounds. He noted that this policy could be outside of the Charter. Commissioner Roy asked what the rules were during these public hearing sessions. The ED explained that they were the same as a Public Meeting but it a vote would be unlikely.

- Mediator Podziba moved to the “Professional Development” subsection under “Accountability/Checks and Balances” in the Scope of Work Document and asked for feedback. She explained the reason for its inclusion was that Commissioners felt that training should be ongoing. Commissioners and the ED noted that they would be attending conferences to continue their professional development. The ED asked if there should be any limits on Commissioner’s travel and expressed that he did not want to be the arbiter of what was and was not in the interest of Commissioner’s professional development. Commissioners and the ED discussed reasonable bounds for professional development and Mediator Podziba stated that she would draft this section.
- Mediator Podziba moved to the “Dispute Resolution Procedures Regarding the Charter” in the Scope of Issues document and asked Commissioners if this section was necessary. Commissioner Stebbins suggested moving the topic into the next section, and Mediator Podziba agreed. Mediator Podziba asked how the Charter would be adopted. Commissioner Stebbins stated that it should be voted on in a Public Meeting and the ED stated he should sign it as well to bind staff. Mediator Podziba asked how often the



Charter should be reviewed, and the Chair suggested every two years. The ED concurred. Commissioner Roy suggested including the option for an emergency review. The ED and Commissioners discussed how the Charter would serve as a legacy document and provide clarity on issues where the statute was silent. Mediator Podziba asked if Commissioners would like a regular review after the initial review in two years. Commissioners discussed and the Chair suggested that the review occur every three years after an initial review. Mediator Podziba asked about the process for revising the Charter. Commissioner Stebbins suggested periodic review with staff input, an ED authorization, and a final vote by the Commissioners. Mediator Podziba offered an alternative suggestion where periodically Commissioners could propose changes to the Charter. Commissioner Concepcion suggested making the periodic review optional, but the Chair noted that a periodic formal review was good for the Commission. Mediator Podziba summarized that a review occur three years after the Charter was signed after the initial review and confirmed an emergency clause existed. Mediator Podziba commented that she would draft language based off the discussion.

The Commission took short recess.

- Mediator Podziba moved to the “Background” section of the Charter. The ED asked that the Commission’s full mission statement be included. Mediator Podziba asked if No. 3 was necessary and Commissioners agreed it could be removed and Commissioner Stebbins suggested that the last sentence of No. 4 should be its own paragraph. Mediator Podziba stated she would apply the requested edits.
- Mediator Podziba moved to the “Definition of the Cannabis Control Commission” section and asked for feedback. Commissioner Roy asked if No. 2 purposely left out some of the Commissioner’s roles. Mediator Podziba stated that this section was more high-level, and roles and responsibilities were described in another section. Commissioner Roy asked a question relative to the definition of the Commission and that it omitted the ED and Staff. Mediator Podziba explained the differences between the definitions. Commissioner Stebbins suggested removing this section and incorporating it into “Background” and “Roles and Responsibilities.” Commissioner Stebbins suggested moving No. 1 in this section to be No. 1 in “Background” and stated that Nos. 2 - 5 could be moved to “Roles and Responsibilities”. The Chair requested that the first sentence of No. 3 be included under “Roles and Responsibilities.” Mediator Podziba asked how the Treasurer and Secretary were elected. Commissioners discussed how it had worked in the past and agreed that there was ambiguity in the process. The Chair stated she was not entirely comfortable with those positions rotating and stated that the ED and Chair should be involved in the process. Commissioners discussed the nomination process for the Secretary and Treasurer roles and how to formalize it in the way to best served the Commission. Mediator Podziba suggested a term limit of two consecutive terms and asked if Commissioners knew who would be nominated before the meeting in which they voted. Commissioner Stebbins noted the Open Meeting Law implications of prior notice. Commissioner Concepcion suggested that the Chair could solicit volunteers to be nominated in order to understand who was interested in running. The ED noted that there



may be a benefit to a Commissioner serving as Treasurer or Secretary beyond the suggested two consecutive years and clarified that the Chair could be appointed to one of the positions. The ED confirmed that he could probe the process to an extent, but he could not give notice to Commissioners in violation of Open Meeting Law. Mediator Podziba summarized that at the meeting prior to the January meeting, the Chair would ask and Commissioners would volunteer if they were interested. The Chair petitioned the ED for his perspective on term limits, and he questioned the utility of setting a maximum limit when the Commission is ultimately self-policing. Commissioner Concepcion noted that she requested term limits to limit the loss of institutional knowledge as new Commissioners were onboarded. Commissioner Camargo suggested creating SOPs to retain institutional knowledge as the roles changed. Mediator Podziba clarified that the positions would still be voted on each year even with longer terms. The Chair proposed that they revisit this when they review the Charter in two years and raised the possibility of the third year as a transition year between the roles. The ED noted the Open Meeting Law implications of having two Commissioners meet with staff. Mediator Podziba confirmed that for this draft the Charter will be silent on max terms limits and the Commission will reevaluate in the future. Commissioner Camargo explained that if the Commissioner was interested in a role that they could ask the Commissioner currently in the role about their experience.

- Mediator Podziba moved to the “Roles and Responsibilities” section of the Charter and asked what delegating administration responsibilities to the ED meant and what was the process. The ED commented that the Executive Director was the Administrative Head of the Commission and that the Commission did not have the statutory authority to remove his position’s administrative responsibilities. He suggested striking the word “administrative” and adding “at the Commissioner’s discretion” in No. 1(b)(ii). Commissioner Camargo noted the need to add language related to equity in No.1 (a) and stated that she wanted equity to be referenced throughout the document to remind future Commissioners about the mandate. Mediator Podziba offered language for a new No. 1(a)(iii). Commissioner Stebbins suggested moving No. 1(c)(iii) to No. 1(d) and the ED suggested merging No. 1(c)(i-ii) and inserting the word “promulgate.” Regarding No 1(d)(i), the ED clarified that the Commissioners did not need to hold public hearings on suitability. Regarding No. 1(c)(iii), Commissioners agreed to replace “appeals” with “proceedings.” Commissioner Roy suggested adding “deny” to No. 1(d)(ii). Commissioners and the ED discussed whether formal administrative hearings should be provided for in the Charter. Commissioner Camargo requested training on this function. The ED suggested moving No. 1(e)(vi) to No 1(d). Commissioner Concepcion asked whether Commissioners established and recommend the ED’s goals. Mediator Podziba proposed language to incorporate. Commissioners and the ED discussed whether “approve” in No. 1(e)(iii) indicated a Commission vote and Mediator Podziba suggested “vote to approve.” Commissioner Concepcion explained that the ED’s goals and Commission goals were not necessarily the same and Mediator Podziba stated that the process needed to be reworked and that she would redraft the language. The ED suggested adding “and related outreach” to the end of No. 1(e)(iii). Commissioner Concepcion stated that No. 1(f)(ii) did not fall in line with current CAB assignments. The



Chair explained that in her interpretation the Commissioners did not necessarily have to stay in their appointed lane Commissioners and the ED discussed their preference to not limit Commissioners to their topic-specific expertise and how to address this in the Charter. Mediator Podziba suggested removing No. 1(f) and including a provision in the “Background” section which specific Commissioners’ areas of expertise but did not relegate them to those topics. Mediator Podziba asked about changes to No. 1(g). The ED suggested adding to the Commissioner’s role in the adjudicatory process.

- Mediator Podziba asked the Commissioners to bring ideas to the next meeting on outreach. She explained that she would revise the language based on the conversations at this session and then summarized the next steps and deliverables.

### III. Adjournment

- Commissioner Concepcion moved to adjourn the executive session.
- 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 motion to adjourn.

