



## CANNABIS CONTROL COMMISSION

**July 28, 2022  
10:00 AM**

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

### **EXECUTIVE SESSION MEETING MINUTES**

#### **Documents:**

- July 28, 2022, Cannabis Control Commission Mediation Session Two Agenda.
- CCC Ground Rules.
- CCC Process Design Work Plan.
- CCC Draft Scope of Issues.
- CCC Dynamics by Theme Assessment.

#### **In Attendance:**

- Chair Sarah Kim
- Commissioner Nurys Camargo
- Commissioner Ava Callender Concepcion
- Commissioner Kimberly Roy
- Commissioner Bruce Stebbins
- Executive Director Shawn Collins
- Legal Assistant 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 agenda and asked all parties involved to go over their goals and expectations. She noted the current confirmed calendared dates.
  - Mediator Podziba moved to review and revise ground rules. After a brief discussion, she identified December 2022, as the target date for governance work to conclude. Mediator



Podziba asked if the Commissioners preferred to work by consensus as opposed to by a vote and discussed considerations relative to the Open Meeting Law (OML). Mediator Podziba noted that the Commission could work by consensus, but she explained the Commissioners must vote in public session to finalize the document.

- Mediator Podziba provided an overview of the agenda-setting process. Commissioners discussed the definition of “Commission” and Executive Director Shawn Collins (ED) suggested that the Massachusetts Gaming Commission (MGC) might provide the best guidance in this area. Commissioner Stebbins noted that at the MGC, the Commission referred to the agency. The Chair stated her agreement with that approach and suggested that they could be referred to as Commissioners and the Commission as the agency. The ED noted the tension between the Chair and the Commission. Mediator Podziba offered the possible usage of capital “C” and lowercase “c” to differentiate between the Commission as an agency and the Commissioners.
- Mediator Podziba noted the process of disclosing the Executive Session minutes. The ED stated that at any time someone can challenge the withholding of such minutes and provided background on the process. The Chair mentioned the implications of interim agreements between the Commissioners and the need to bring that into public session. Mediator Podziba noted that the Commission can come into tentative agreements before a public vote. Commissioner Roy noted the need to define terms on ground rules. Commissioner Concepcion asked a question relating to OML and Public Records Laws and the implications of the need to vote in public. Mediator Podziba noted that the General Council provided the language for the documents and explained the process used for Public Meetings.
- Mediator Podziba asked a question related to the agenda for the mediation process and the implications on the OML. Commissioner Roy asked if she could send notes to an Executive Assistant or the ED and inquired about the implications of serial communications. The ED noted that that type of communication was not allowed as it constituted a serial communication and the Chair disagreed with that conclusion. Mediator Podziba asked if, at an open meeting, a topic could be discussed to set the agenda. Commissioner Stebbins noted that it might be in compliance with the OML but that he would be hesitant to taking such an approach. The ED stated that the agenda was not published. The Chair asked if the agenda was broad and discussed the need for benefits that can be more defined. Mediator Podziba noted that she could modify the agenda for upcoming Executive Sessions to make it less broad. The ED voiced that the Commissioners might be defining the agenda too narrowly and commented on the ability to discuss topics more broadly. Mediator Podziba explained that the agenda would be in the Executive Session discussion items and the ED cautioned against Commissioners discussing the Charter outside of Executive Session. Mediator Podziba encouraged Commissioners to contact her with any concerns related to conversations that occur in mediation and that she may caucus with one or two Commissioners to address issues that they have a particular interest in. After a discussion, the Chair noted the need to keep conversations confidential. The ED stated the need to keep serial communication to a minimum. Mediator Podziba asked if she needed to let everyone know when



communicating with the General Counsel and the ED noted that its fine as long as it was kept confidential.

- The ED focused on the word “seat” in the mission statement. He discussed the cultural shift in the definition of the word “seat,” including the need to tie it into the culture of the Commission and the need to further define what the word meant. Commissioner Roy asked whether there was a need to define the capacity of Commissioners and noted the need for a separate Chair document regarding roles.
- Mediator Podziba reviewed and revised the draft process design work plan and asked if there was an agreement that the Commissioners have a full plate of responsibilities. Commissioner Stebbins stated the Commissioners have shared responsibilities. Commissioner Camargo added they were hired due to their expertise, and all need to use their respective lenses. Mediator Podziba noted that the Commissioner job description can have generic language. The ED stated that they could clearly lay out the roles and assigned tasks in the job description. Commissioner Camargo noted the implications of race and stated that it was not just her, but all Commissioners were interested in furthering social equity. Commissioner Roy asked if statutory language could be included in the job description. The ED expressed a desire to revisit the conversation and make an explicit decision. Mediator Podziba stated that she would modify the last sentence of the Ground Rules.

The Commission took a short recess.

- Mediator Podziba asked to review the Process Design Work Plan and asked if there were questions. She mentioned that she would revise the product portion of the process design work plan to remove “Chair” and add “Corporate Governance”. She discussed the possibility of revising the job descriptions of the ED, Chair, Secretary, and Treasurer were explored. Commissioner Camargo asked if Mediator Podziba was going to remove the word Chair from the product and it remained after a discussion with Commissioner Concepcion objecting to the removal. Mediator Podziba stated that she had never personally done graphics or organizational charts but could do so in this governance mediation; she then discussed the ability to review the product portion of the process design work plan. Mediator Podziba agreed to modify the paragraph pertaining to outreach and consultation.
- Commissioner Roy asked the ED if the MGC governance document was public; the Gaming Commission had not drafted a formal governance document and Commissioner Stebbins noted the informal nature of the governance structure.
- Commissioner Concepcion asked a question related to the Trusted Information paragraph. Mediator Podziba noted that she was trying to find other examples of governance, and that if people find useful examples or information, that they should share it with the group. The Chair noted Boston’s city Charter. Commissioner Stebbins suggested the school committee Charter was another good example to consider. Commissioner Concepcion asked for a change in the Trusted Information paragraph. Commissioner Roy asked a clarifying question regarding the Prior Activities paragraph. Mediator Podziba mentioned that the information was synthesized in the Charter and the



assessment dynamics. Commissioner Roy requested that this paragraph be modified, and Mediator Podziba made this modification. Mediator Podziba asked if Commissioners would be willing to modify the timeline to finalize governance documents to December. Ultimately, the Governance structure would be posted, and the ED stated that it will be a public document on the website, intranet, and potentially in onboarding packets. Mediator Podziba noted she would revise the documents to incorporate the Commission's requested comments.

- Mediator Podziba explained that Dynamics by Theme was what was contributing to the functionality of how things ran. Commissioner Roy requested a change to the language in the first theme, while Commissioner Concepcion requested a change to the language in the second theme. Mediator Podziba confirmed that the themes incorporated the sentiments of staff and other Commissioners.
- Commissioner Roy asked clarifying questions regarding the fifth goal, productive organizational interactions and asked if the Commissioners could have less firewalls of staff. The ED opined that he is the formal firewall, providing further clarity on how this would work, with reference to the 30A quasi-judicial administrative process policy. The Chair mentioned the Alcoholic Beverages Control Commission Chair for comparison purposes and discussed interactions and the implications of the OML. The ED mentioned the Order to Show Cause and noted the implications of prejudicing the Commission. Commissioner Camargo requested adding another theme related to a gray area, and the need for Commissioners to review the themes and bring back suggestions. Commissioner Roy asked a question regarding the ability to vote on licenses, and if the ED could remove a licensee from the agenda prior to a vote at a public meeting. The ED answered in "yes and no" fashion, because he does not see his role to limit the Commissioner's ability to deliberate, but he noted on occasion that he needed to act as a firewall.
- Mediator Podziba commented that she sees this as an issue of onboarding.
- Commissioner Camargo noted the implication of onboarding and noted the need for a theme of onboarding while Commissioner Concepcion mentioned that the incorporation of ongoing education would be beneficial. Commissioner Roy agreed with this suggestion.
- Commissioner Roy asked a clarifying question regarding the seventh goal and the use of goal setting, with Mediator Podziba responding that this was something the Charter needed to address. The ensuing discussion addressed the Commissioners' goals, and that the resources needed to achieve those goals brought a conflict between what is available and what could be accomplished. This conflict exemplified the tension they were trying to address, while adding the need to address how they could help the ED's goals.
- Commissioner Camargo added the Commissioners did not have clear goals besides their day-to-day job descriptions.
- Commissioner Concepcion added determining how resources were given, or what the requests were that receive priority. She noted the impacts on leadership and staff. Commissioner Roy agreed. The ED observed how the Commission's goals could be formulated. Commissioner Roy mentioned Commissioners/Department Heads and ask questions regarding political affiliation. Mediator Podziba clarified issues surrounding the Commission's legislation theme.



The Commission took a short recess.

- Mediator Podziba proceeded to review and revise the draft scope of Issues/Charter Outline. The Chair asked where the Commissioner and Staff leadership interaction topic would reside if removed from the Charter; Mediator Podziba answered that the topic would be located in a business term the “parking lot” and noted when she did the assessment after reflecting on the issues she heard when speaking to people. Mediator Podziba asked if the setting of priorities should be in the Charter, and Commissioner Stebbins noted that priorities should be in the Charter and the goal-setting process.
- The ED asked if working groups should be in the Charter and the need to perhaps move away from the working group structure. Mediator Podziba asked for a broader term than “working groups”, noting that there needed to be something in the Charter on how issues were addressed by Commissioners and staff. The Chair opined that the Charter would give the Commission the authority to create groups as appropriate. The ED mentioned his concern that people were conflating the working group with a subcommittee. Commissioner Stebbins stated they have a standard operating procedure for creating a working group, while Commissioner Concepcion noted the fluidity of the term. Mediator Podziba stated that they would revisit the topics and she would keep the item in the draft.
- Commissioner Stebbins voiced the need to meet about structure while Commissioner Roy emphasized the need for transparency. Commissioner Stebbins commented that he did not think that Constituent Services should be in the Charter and Commissioner Camargo agreed.
- The ED noted the outreach from licensees to Commissioners as related to an investigation. Mediator Podziba stated that this is addressed in the Commissioners, Staff, and Team interactions. She also explained that constituent services will not be in the Charter, and communication with licensees was in the firewall sections. Commissioner Roy asked if the ED could advise the Commissioners on outreach and Commissioner Concepcion noted the ED’s prior recommendation that concept remain in the Charter. Commissioner Stebbins recommended that the development of an agreed agenda should remain in the section, but other pieces should be removed. Commissioner Roy agreed. The ED commented about the need for flexibility in the press scrum and voiced the need to bring a structure regarding who speaks on behalf of the Commission. The Chair agreed. Commissioners Stebbins noted that every Commissioner should have the ability to be involved in outside communication. Mediator Podziba explained the scope of the process was to build a Charter and job description. The Chair agreed. Commissioner Concepcion stressed that every Commissioner needed to have the opportunity to participate, particularly with topics like their priorities and community engagement. The ED commented upon stakeholder engagements. Commissioner Concepcion stated her preference was to not include external public communications in the Charter but wanted to include the press scrums after public meetings. Commissioner Camargo noted internal engagement and provided a hypothetical on how these engagements could get murky. Commissioner Stebbins mentioned the ED’s responsibility as it related to addressing Commissioner’s concerns. The Chair commented that this could be discussed at the



agenda-setting portion of the meeting. Commissioner Concepcion voiced that she would not want to discuss that in a public meeting.

- The ED discussed his role and the Commissioner's expectations from the ED. Mediator Podziba kept Communications in the document and opined that the OML section did not need to stay in the Charter. Commissioner Concepcion voiced that Human Resources should not be in the Charter, and Mediator Podziba removed the section.
- Commissioner Camargo voiced the need for Commissioner onboarding and for the topic to be included in the Charter. She discussed continuing education, training and professional development. Commissioner Stebbins suggested this topic be located in the accountability section and commented about Commissioners participating in conferences and personal development events.
- Commissioner Stebbins voiced the need to keep the public meeting agenda setting in the Charter. The ED agreed and noted that it could be built into the job description. Commissioner Concepcion stated the need to include language in shared responsibility in the agenda-setting authority in the agenda-setting process. Commissioner Stebbins suggested that the operations budget should be in the Charter, and the Chair asked mentioned dispute resolution procedures, Mediator Podziba articulated a process for handling disputes.
- Mediator Podziba suggested that the removal of the Chair could be addressed in another section. Commissioner Concepcion discussed the loss of a Chair and the possibility of losing a quorum. Commissioner Roy requested clarity regarding an administrative order versus the Commissioner's vote. The Chair voiced that some things being discussed are driven by personality and less about role. Mediator Podziba stated that people will bring their personal experience into play, and she will account for that. The ED voiced that the goal is to negate personality traits. Mediator Podziba stated the desire to create a document that is beyond just the people sitting there at mediation. Mediator Podziba noted the need to start a Charter review file, Mediator Podziba stated that she will integrate the Commissioner's feedback and get back to the Commissioners. Commissioner Concepcion voiced the need to retain regulatory review in the Charter.
- Mediator Podziba pointed out that regulatory review was removed in a previous meeting and advised that they revisit this topic. The ED noted that the Commission had opened the regulations four times and discussed the fact that it was different from other agencies; for example, the Retirement board and MGC utilize different processes. The Chair stated that the statute gave the Commission authority to open regulations and her instinct was to leave it out of the Charter; Commissioner Camargo disagreed. The ED observed that regulations were opened as a whole in the past and cited the checks and balances built into the process. The Chair noted the use of aspirational language and noted the need to build in flexibility in the process. Commissioner Stebbins voiced the need for the ED to weigh in during public meetings. Mediator Podziba sensed there was an agreement to include the regulatory process in the Charter.

The Commission took a short recess.



- Mediator Podziba started the conversation regarding roles and responsibilities. The ED referred the Commissioners to the introduction paragraph. Mediator Podziba believed that the language made sense and asked how the Commissioners saw their roles. Commissioner Concepcion and Commissioner Camargo voiced that they saw them as acting in the best interest of the agency. Commissioner Camargo also stated that Commissioners had a responsibility to their appointing authorities, their constituents, and to other Commissioners. Commissioner Concepcion thought that the appointing authority should not be included; Commissioner Camargo noted their removal authority. Commissioner Roy mentioned their responsibility for ensuring an equitable and accessible industry. Commissioner Stebbins and Commissioner Camargo debated if the Commissioners were considered advocates for the Commission and she noted the board's role advocating to the legislature. Commissioner Roy stated her understanding of what a "Commissioner" meant. Mediator Podziba asked if the Commissioners saw themselves as having a special responsibility regarding their seat, or in their expertise. The ED explained that the definition of a "seat" might be overly limiting and mentioned that some issues could fit into multiple areas of expertise. Commissioner Concepcion and Commissioner Camargo noted examples to support the ED's point. The Chair mentioned concern that new issues would arise in the future that would not be covered. Commissioner Camargo commented that the OML made it difficult to implement strategic plans individually.
- Commissioner Stebbins discussed expectations from the public. Commissioner Camargo asked the ED if listening tours across the state were helpful when the Commission first started; he replied that he felt like it was a necessity. Commissioner Concepcion suggested the Charter spell out any misconceptions around responsibilities falling on one Commissioner and stated the need to lay out responsibilities in the Charter to clarify the roles. Mediator Podziba recommended language to accomplish this task. Commissioner Stebbins suggested broader language on responsibility. Mediator Podziba hoped that the Charter would specify what all the Commissioner's responsibilities. Mediator Podziba stated she would draft something about OML for their review. Mediator Podziba asked for opinions relative to the budget and resources. Commissioner Stebbins suggested the Commission vote on and approve a final budget request at public meeting and the ED agreed with this approach. The Chair explained that they do not have the specialized knowledge to do that. Commissioner Camargo explained her role as Treasurer and Commissioner, and that more clarification was needed regarding the responsibilities of the Treasurer. The ED mentioned that he was conflicted. Commissioner Stebbins noted he is more focused on the responsibilities versus the language. Commissioner Camargo argued that the key to answering the question is what legal authority was given to the role.
- Mediator Podziba asked to review and revise the draft of the issues and Charter outline and noted the next steps and deliverables.

### III. Adjournment

- Commissioner Roy moved to adjourn the Executive Session.
- Commissioner Concepcion seconded the motion.



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

