



## CANNABIS CONTROL COMMISSION

**October 7, 2022**

**In-Person**

### EXECUTIVE SESSION MEETING MINUTES

#### **Documents:**

- 2022103 Draft Charter V4
- Cannabis Control Commission Proposed Schedule and Project Milestones
- Draft Cannabis Control Commission Outreach and Consultations Strategy
- July 28, 2021, Legislative and Executive Branch Outreach Memorandum

#### **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
- 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 Susan Podziba (Mediator Podziba) reviewed the work that had been completed since the last executive session, noting the draft Outreach and Consultations Strategy and Proposed Schedule and Project Milestones documents she had prepared.
- Mediator Podziba began with the No. 5 in the Roles and Responsibilities section of the Charter. Executive Director Shawn Collins (ED) asked to review No. 5(b) as the Commissioners set the goals. The Chair noted that section might be spiritual and asked if the ED saw the bullet as duplicative. The ED suggested merging No. 2(a-b), with a



review of the Commission's performance evaluation process. Commissioner Concepcion noted that the Commission's performance evaluation process was not clear when she first started and urged keeping the (b) bullet. The ED gave a historical overview of how the process worked and noted the current process. Commissioner Roy explained her understanding of the performance review process and asked if Commissioners had a chance to provide feedback prior to the presentation of goals. The ED received feedback from Commissioners in an informal and formal manner, and discussed his preference that the performance evaluation process was handled in a formal manner. Mediator Podziba discussed the need for clarity and proposed language to accommodate. The ED noted that the formal opportunity to suggest goals was during the performance review. Mediator Podziba asked if her proposed language provided relief to the sentiments. Commissioner Camargo noted that Commissioner's Roy comment was in terms of timing and explained that both the ED's and the Commissioner's priorities need to be accommodated. In response to Commissioner Roy's query regarding the timing of the goals, the ED stated that he has not begun work on this, but typically did so November or December each year. Commissioner Roy asked if they should include "in the third quarter".

Commissioner Camargo suggested to not be too specific and making a bullet regarding operation, process, and timeline. The ED discussed clarifying that this process was tied to the calendar-year and not fiscal year and how that would be helpful for the process. He mentioned that the timeline aligns with the staff goal setting process. Mediator Podziba proposed language related to timing. Commissioner Camargo proposed language related to advising the ED in the 4<sup>th</sup> quarter. The ED wanted to formalize the role of the Commissioners and to clarify that Commissioners set the goals. Commissioner Roy asked for clarification regarding how the process worked and the Chair noted the need to work with the ED to set the goals. The ED noted that even if he disagreed that it would not change the Commissioner's right to have those goals. Mediator Podziba noted that not everything that a Commissioner wanted to accomplish needed to be set into the ED goals. The ED mentioned the need to be nimble. Mediator Podziba believed that number five accomplished that need. Commissioner Stebbins proposed language to ED goal No. 1 and noted that he was struggling with No. 2. The Chair echoed the ED's previous comments. The ED noted that there needed to be coordination to set ED goals. Commissioner Roy provided a historical overview of how Commissioners set the ED's goals. The ED provided further background on how the process had worked. The Chair believed that the process didn't work because there was a lack of alignment. The ED agreed. The Chair noted some current goals and asked how the ED preferred his goals to be formatted. The ED preferred that his goals be aligned given the historical tension.

- The Chair asked a follow-up question related to the metrics of how the goals should be measured. The ED provided an example of how it was measured in the past. The Chair asked how the ED painted a picture when the ED's goals were broad. Commissioner Roy provided an example of how the goals were structured but that she also preferred more metric-oriented goals. The ED noted the process of taking the high-level goals and going



to each department to ask what those goals mean to them. Commissioner Roy opined that this was too broad and lofty. The Chair felt that the goal of creating a world class agency seemed like a mission statement as opposed to a goal. The ED noted how the goal of creating a world-class agency was implemented. Mediator Podziba confirmed the ED needed the final approved goals before he could go to staff. The ED wanted the Commissioners to have insight and input and explained the implementation process.

- Mediator Podziba noted that the ED's goals were voted on in a public session. Commissioner Stebbins discussed the mid-year review meeting and the usefulness of check-ins. The Chair wanted to establish goals that were measurable, as opposed to arguable or lofty in nature. The ED responded that some goals were multi-year and provided example on how lofty goals could still be measured by metrics. Commissioner Roy urged that Commissioners have a voice in developing the goals. The Chair cited the need to justify the budget requests, with an example of potentially limiting outreach to different states. Mediator Podziba recited her understanding of the conversation and proposed language. The Chair urged balance between box checking as well as setting broader goals. She added she thought it was part of the communication and process that they go through and noted everyone could have different definitions. Mediator Podziba asked if box checking should be goals or be a part of the execution plan. The Chair mentioned limitations imposed by the Open Meeting Law (OML) in this process. She also noted the need to meditate. The ED noted his openness to discuss progress and projects and bringing that to a public discussion. Commissioner Camargo noted this tied into the agenda-setting process. Commissioner Roy suggested substituting "broad based" in the first goal, for "strategic". The ED noted that strategic seemed fair and noted the role of the staff. The Chair echoed her comments related to definitions of measures of success. The ED added that being a world class agency as it pertained to a state agency, might be a different definition than best in the nation. He added that the proof was in their success, that they can do both. Commissioner Roy noted the legislative mandate of being cost neutral. The ED gave further clarity on the budgetary process and noted the Commission's revenue forecasting project. Commissioner Stebbins proposed some language changes to goal No. 2 and asked if it was fair to call them ED goals instead of Commission Goals when they are voted on.

The Commission took a short recess.

- Mediator Podziba summarized from the last discussion that she would digest the proposed changes from ED to Commissioner goals and would circle back.
- Mediator Podziba moved to the Interactions Between and Among Commissioners and Executive Director, Leadership Teams, and Staff section of the Charter. Commissioner Stebbins provided further information on this section's development. Mediator Podziba noted that the subject tied into the previous topic of boundaries. Commissioner Concepcion asked a question related to number three and the need to go through the ED to interact with staff. Commissioner Roy mentioned the difference between a check-in and needing staff support. Mediator Podziba noted there were a lot of clauses in the bullet and then explained how the bullet was formatted. The Chair clarified some feedback on



her understanding of the bullet. The ED noted how the tension had been felt in the past and that he would prefer to be involved in the process as it related to the devotion of staff resources. Commissioner Camargo mentioned things that she has done to engage others and felt that the Commission might be moving away from historic tension. The ED noted that he agreed with that approach and that his comment was more related to staff resources and projects. The ED explained his hesitation to reach out to staff below the department head (DH) level. Commissioner Concepcion said that she didn't see that as the same. The ED discussed the importance of the organizational chart.

- Commissioner Roy related the implications of reaching out to staff during the public meeting week. The ED provided further information related to how a public meeting week worked and discussed the role of the legal department. Commissioner Roy provided a situation where she reached out to the licensing department and asked how she should have handled a previous situation related to a condition. The ED explained to her what they could have done differently. Mediator Podziba asked if questions about licensing conditions went to the Legal Department or would they go to the ED. The ED noted that it spoke to the chaos of the public meetings and the attendant burden. Mediator Podziba expressed that the Commissioners have direct access to the ED and DH, but not to other staff.
- The Chair remarked about staff interaction and engaging staff and observed that it might be problematic. Commissioner Camargo provided insight about how the process had worked and she wanted to reengage staff on the issue. Commissioner Camargo provided reasons she had reached out to a DH. The ED asked Commissioner Camargo how she would have handled a DH denying her request to participate in a staff meeting. Commissioner Camargo responded that she had previously received a denial from a DH, and it did not bother her. The ED illustrated how staff and Commissioner interaction could be problematic. The Chair expressed that she understood the importance of building rapport with staff and also desired to get an opportunity to talk with the people on the front lines but to not interfere with the ED's ability to do his job. Commissioner Camargo related to what she had done for staff outreach and thought that staff might want these interactions.
- Mediator Podziba noted that the Commissioner's role was isolating and asked where Commissioner Camargo would draw the line. Commissioner Camargo noted that she would not speak to staff unless she talked to their bosses and mentioned that she had reached out to the ED to attend staff meetings. Commissioner Concepcion noted the difference between social interactions that are non-work related, and staff meetings. Commissioner Stebbins felt that the culture needed to shift and discussed that he already had DH check-ins and would regularly check-in with ED as well. The Chair wanted to ensure that the Commissioners were being respectful, and all Commissioners were being fair and getting equal access. Commissioner Roy asked about chain of command implications. Commissioner Concepcion noted that Commissioner Camargo's approach made sense and noted how it would work if all Commissioners would take the same approach. Commissioner Camargo wanted to reengage staff and suggested that all Commissioners take the same approach. The Chair noted that she thought it was a good idea. Mediator Podziba asked how often the Coffee with Commissioners event should



happen. The Commissioners stated every quarter and noted the previous structure of the meetings. Commissioner Stebbins suggested focusing the discussion around how the Commissioners want to interact with staff. Mediator Podziba relayed staff concerns relative to tensions surrounding Commissioners engagement. Commissioner Roy noted that she overcompensated the other way where she does not reach out to staff unless necessary, and inquired about why staff does not reach out. The Chair asked how they would make sure that the Commission was engaging and getting to know the frontline people and having those opportunities to listen. The ED noted the utility of possibly adding a mission statement at the beginning of the Charter. He compared the Commissioners to five members of a board, and then considered how staff might take the interaction with a “board member”. He believed he was most effective when he simply conversed with staff. Commissioner Camargo mentioned that there was no Commissioner handbook to learn how to conduct oneself. The Chair wanted to figure out corporate governance and ways to conduct business like a board. The Chair added the need to understand the conflict-of-interest law, their adjudicatory role, and how Commissioners set policy. Commissioner Concepcion explained that she received outreach from external sources frequently but wanted to get internal feedback regarding how Commissioners were performing their work. Commissioner Concepcion asked a clarifying question regarding staff support and The Chair clarified. Commissioner Roy noted that she had previously requested to visit public labs. The ED noted that they must be careful when visiting cannabis businesses because they are fraternizing with someone whose business will end up before the board. The Chair inquired about fraternization and ethics training. The ED stated he was referencing fraternization in an enforcement and administrative procedure context. He related past circumstance and examples to illustrate his concerns. Commissioner Concepcion asked about bias or the need for recusal on a license and how that would operate. The ED drew an organizational chart for reference and how the processes would work and expressed that bias must be avoided. Commissioner Camargo raised the possibility of conducting a 30A training refresher course. Commissioner Stebbins asked if No. 6 protected them and suggested they fold No. 9 into No. 6. Mediator Podziba proposed language for No. 9.

The Commission took a short recess.

- Mediator Podziba requested looping her into the conversation when the Commissioners sought support or information from staff over the upcoming weeks.
- Mediator Podziba moved to the Structural Mechanisms for Joint Commissioner and Staff Work and provided background on the topic. The ED provided further background into the topic and related the number of working groups, the number of contracts, and the next steps they should take. The ED provided the example of an informal working group of one which addressed advertising. Mediator Podziba explained how she laid out the formal process. Commissioner Roy asked who the keeper of the records of Charter was and who would help drafting. The ED noted that it lived on the intranet, and that everyone had access to it. The Chair explained the importance of ensuring they were not



taking the staff away from their goals. The ED discussed the need for resources and the role of human resources.

- The ED explained that the regulatory process informed the working group model and mentioned the ministerial nature of some topics. Mediator Podziba commented that external working groups were discussed in a later section. Commissioner Roy asked which staff determined the Commissioners in a working group. She expressed the need for transparency on which working groups existed and how a Commissioner would apply to be on one. The ED noted that some working groups do not need a Commissioner on it and that he would use his best judgment to choose the Commissioner who would serve. Commissioner Roy proposed new language. The ED mentioned the secret shopper working group and explained how Commissioner Concepcion became a part of the working group. He also noted the implications of discussing the working group in a public manner and that working groups were formed to complete a task. Mediator Podziba noted that it sounded like working groups were (1) a way to internally manage resources of staff and budget and (2) a way for Commissioners to express something they wanted to work on and access staff resources; a possible way to address the issue is to try to Charter a working group.
- Mediator Podziba requested that the Commission hold off on the conversation about external working groups until a later section. Commissioner Camargo believed that external work groups were related to internal work groups in terms of how they functioned, and the permission required beforehand for the Commissioners to participate. Mediator Podziba asked the ED if the external and internal work groups were related. The ED noted he thought they were two different things regarding staff resources being devoted to it and the executed Charter.
- Commissioner Stebbins requested edits to No. 1 regarding a word change and No. 5 to allow for staff to move forward without the ED approval. Commissioner Camargo reiterated that she wanted to discuss external working groups. Mediator Podziba noted the discussion was for another section and she would make sure they reviewed. Commissioner Concepcion and the Chair noted that it was related to the current discussion. Commissioner Camargo recommended adding a section for external work groups. The ED stated if they are going to be devoting any staff resources to any project then they need to put structure to the project. He believed then no one in the future could claim they did not receive notice. Mediator Podziba proposed changes to the language related to internal and external members of a working group. The ED mentioned that he was comfortable with the edits, as the Commission manages Commission resources, but opined it would be beneficial to note all participants in the process. Commissioner Concepcion explained it would also benefit Commissioners to have an understanding and awareness on external working groups. The ED gave examples of using external resources.
- Mediator Podziba moved to the Legislative and Executive Branch Outreach section and asked if it should also incorporate ideas for all governments including, municipal, and federal. Commissioner Stebbins mentioned local control in the statute and Commissioner Concepcion noted legislation. Commissioner Stebbins added it was not only legislative, but it also involved the executive branch. Mediator Podziba explained that it sounded like



it should be incorporated, but that it didn't necessarily need to be spelled out. Commissioner Stebbins discussed the Department of Government Affairs and Policy (DGAP) role as it related to No. 6. Commissioner Camargo thought that it should be spelled out. The ED proposed a change to No. 1. Commissioner Concepcion noted No. 7(c) and the possible need to refine further. She discussed how the process had worked as an individual Commissioner. The ED mentioned the support mechanism, which helped coordination with other Commissioners. Mediator Podziba asked if (c) should be deleted. Commissioner Stebbins opined that he would be comfortable with deleting letter (c) and he would be comfortable adding the ED to (a). Commissioner Concepcion stated how she made clear when she was not speaking in her official role. Mediator Podziba noted that (c) would be deleted and that DGAP should be folded into the provision. Commissioner Stebbins thought the ED role should be folded into the process. The ED wanted to not overstate his role and was mindful of occupying the right space. Commissioner Concepcion proposed an idea for the ED to be folded into No. 7. Mediator Podziba described how she planned to rewrite the language.

- Mediator Podziba moved to the External Communications section of the Charter and Commissioner Stebbins asked why No. 4 was there and commented that it seemed out of place. Mediator Podziba provided clarity that she included the item in the draft because it was raised at a previous meeting. The Chair approved of it being incorporated.
- The Chair noted her disagreement with No. 5 especially as it related to not being able to speak if you decide not to go first and noted scrum. She felt uncomfortable saying that someone could not speak. Commissioner Concepcion and Commissioner Camargo explained why they approved of the current scrum order and procedures. Commissioner Roy gave an instance of where they would be able help one another out and noted they do not have the ability to do that under the current process. The ED explained the reasonings for adopting the approach. Commissioner Stebbins noted that the Commissioners could choose not to participate in the scrum. The ED opined that the process should be developed in a standard operating procedure and not worked into the Charter. The Chair noted an example of where one of her statements did not go out and that there should be a determination of who gets to decide what is personal to a Commissioner and what is important to the Commission. The ED stated he already addressed this with her and he agreed if a story is personal to a Commissioner, then the Communications team should be available to support each of them. He added there were going to be instances where the Commission's interests align or do not align with an individual Commissioner's statements and he stressed that the Communications team should be involved. Mediator Podziba noted that there may be times where a personal statement needed to be made, and asked whether the Charter should incorporate that fact. The ED noted that there might be a time where a personal statement could be a benefit and it could be detrimental. He noted that sometimes the Commission's interest and a Commissioner's interest might not align with each other. The ED explained that they needed to find a way to bake in some discretion and strategy which is a collaborative effort. Commissioner Stebbins proposed an edit to No. 9 regarding the Commission's Communications team. Commissioner Concepcion suggested that the language should not be so rigid in relation to the Communications teams.



- Commissioner Concepcion noted that there needed to be a notification process brought into the discussion. She expressed frustration around not being notified ahead of time when the Communications team was aware of a situation. The Chair noted the tragic situation that had happened in Holyoke. Commissioner Concepcion mentioned information leaking from the Commission. The ED noted past experiences and that he did not want to create paranoia where it did not need to exist. He also explained that he did not want to provide inaccurate or incomplete information to Commissioners. The Chair mentioned crisis management. The ED reflected that he would not be aware of every situation when an emergency dispatch was called and referenced procedures that delved into an emergency process. The ED urged a proactive approach to external communications in future sessions.

### III. Adjournment

- Commissioner Stebbins 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.

