

CANNABIS CONTROL COMMISSION

November 7, 2022

**In-Person**

EXECUTIVE SESSION MEETING MINUTES

**Documents:**

- 20221106 Draft Charter V6
- Discussion Items for Executive Session 7

**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 Podziba gave an overview of the discussion items and the work that had been completed since the last executive session.
- Mediator Podziba began review of the Budgeting and Budgeting Process section of the Charter and asked for feedback. Executive Director Shawn Collins (ED) proposed an amendment to No. 3(h) and pointed out the reference to the Governor and the budget in No. 3(i), suggesting a language change there too. The Chair asked a question about No. 3(j) regarding how they agreed on a legislative outreach strategy. Mediator Podziba referenced No. 3(e) and noted that the approval process was discussed in No. 3(g). Commissioner Concepcion was concerned with the timing of getting the Governor the



Commission's request. The ED explained how the budget proposal was developed previously at the Commission. The Chair wanted to draft language related to (1) the Chair's role in the process, and (2) the ED and the Chair directing the process. Mediator Podziba queried about where to insert the proposed language. After discussions concluded on this issue, Mediator Podziba read aloud the proposed language. Commissioner Roy noted that Commissioners had historically been lobbied by staff and asked the ED if they were trying to avoid that dynamic. The ED did not know if he could prevent lobbying from staff but opined that the Charter helped identify the formal budgeting process and mentioned intricacies in the process.

- The Chair asked how the Commissioners could help manage the process. The ED hoped that Commissioners would communicate with him in that regard. He explained how the process would work if all requests from Department Heads (DH) were satisfied and stressed the importance of a reasonable year to year budget. He mentioned what was possible from the legislature and expressed he was working with staff on the subject. The ED emphasized why workforce planning would be useful. Mediator Podziba echoed her understanding of the discussion. The ED mentioned that he agreed with Commissioner Concepcion's comment regarding the timeline and the time crunch. Commissioner Concepcion expressed that they might want to consider putting language into November in terms of timing of the Governor's budget. The Chair did not know if a legislative strategy for the budget would help. The Commissioner Roy and Commissioner Camargo described their understanding of legislative strategy. The Department of Government Affairs and Policy roles in the process were cited.
- Mediator Podziba noted that No. 3(e – h) all listed December dates and asked which subsection they proposed to move to November. Commissioner Concepcion noted No. 3(g) was her biggest concern regarding the Public Meeting and requested it be moved to November going forward. Commissioner Roy did not want the Commission to be the last agency to lobby. Mediator Podziba asked for the ED's feedback, and the ED described the intricacies of the budget process.
- The Chair asked if there was a possibility of having a public meeting between mid-November and mid-December. The ED reviewed potential times to review the budget in a Public Meeting in 2023. Mediator Podziba suggested that for No. 3(e – g) the language read November/December for flexibility. Commissioner Concepcion suggested No. 3(j) read as December as well. Mediator Podziba asked if the process described in No. 3(f) was always done at a Public Meeting. The ED noted the importance of Department Head (DH) feedback. Commissioner Stebbins stated that No. 3(d) allowed for staff feedback. Mediator Podziba asked if No. 3(f) was still needed. The ED stated if they maintained the edit for No. 3(d), then No. 3(f) would not be needed. Commissioner Concepcion wanted to integrate some of the language in No. 3(f) into No. 3(d). Commissioner Stebbins mentioned balancing Commissioner and staff feedback and noted that No. 3(d) could be used as a preparation meeting. The ED opined about potential problems if the process described in No. 3(f) were to happen in December. The ED mentioned the staff's preference to get the ED's feedback first. Mediator Podziba confirmed the process happened in (d) and (f). Commissioner Concepcion mentioned it also happened in (b).



The ED proposed an edit to (p). Commissioners and the ED discussed whether a process for amending the budget should be addressed in the Charter and the ED suggested adding “that anticipates the budgetary lifecycle” to No. 3(e) to allow for flexibility in strategy when requesting an amendment.

- Mediator Podziba moved to review the Accountability, Checks and Balances section of the Charter and noted that it had been reviewed by the Chief People Officer (CPO). She asked if No. 3 should be removed. The Chair noted that it was covered by the enhanced code of ethics training and expressed the need for Commissioners to fully understand their ethical obligations. She also suggested that an annual refresher would be helpful. Mediator Podziba asked for feedback on No. 6(f) regarding and whether the Chair and the ED needed to be unified in notifying Commissioner’s appointing authorities. Mediator Podziba noted why the CPO took this disciplinary section out. The Chair observed the role of the CPO in mediation and expressed the need to have an escalation process. Mediator Podziba saw that the Charter referenced the employee handbook. The ED explained how the process would play out at the staff level. Mediator Podziba asked how the process would work at the Commissioner level. The ED noted differences due to the statute and Commissioner Roy discussed the appointing authority’s role. Commissioner Camargo mentioned how the process would play out in a Commissioner/staff disagreement. The ED sought to understand his role in the process, his need to insulate the Commissioners from the ED role, and their ability to contact the appointing authority. He endorsed establishing a paper trail before the ED went to the appointing authority. Mediator Podziba noted No. 6(b) and asked whether Commissioners should receive notice at the outset or at the conclusion of an investigation. The ED discussed mechanics regarding complaints. The ED explained that in the example of a criminal allegation like bribery, he would not notify that Commissioner. Mediator Podziba stated that she would get feedback from the CPO and proposed language regarding notifications. Commissioner Concepcion added the way the language was written did not necessarily align with the reality of investigations. Mediator Podziba mentioned the possibility of a new No. 6(a) for notification and No. 6(b) for the conclusion; she asked what happens at the end of the investigation. The ED urged integrating language regarding the need to notify other Commissioners. Mediator Podziba noted the role of the ED, the Chair, and General Counsel in terms of notification. Commissioner Roy and Mediator Podziba proposed language to amend No. 6(b).
- The ED also noted the need to include language related to the complainant, the need to insulate that person, and inform them of the result of the investigation. The ED noted intricacies in determining what actions taken at the Commissioner level and how that differed at the staff level. Mediator Podziba felt the CPO determined if the investigated Commissioner should be subject to disciplinary action. The ED answered that the CPO had authority to work with Commissioners to investigate in that circumstance. Commissioner Concepcion urged for the workforce to be protected, separate and aside from what the appointing authority has authority over. The Chair opined that mediation would help here.
- Commissioner Camargo did not believe that mediation would be fully helpful when for instance, staff had complaints regarding Commissioners. The ED noted the limits on him



in terms of enforceability and also similar limits on the human resources director. The Chair felt that there was a need to communicate with the appointing authority. The ED related his conversations with the Attorney General's office and outside counsel. Commissioner Roy noted the role of a tribunal. The ED mentioned the multiple appointing authorities, and also the potential of a future Commissioner acting like they were untouchable. Mediator Podziba returned to what the ED could do to protect staff from Commissioners and in creating those boundaries. The ED noted a previous instance of how the process worked and how the implementation proved detrimental. Commissioner Roy noted the usefulness of annual training for Commissioners and suggested potentially keeping a mediator on retainer. Mediator Podziba noted the option of establishing an Ombuds office.

- Mediator Podziba went on to review No. 6(f). Commissioner Roy noted that one person should not have all the authority. The Chair noted the role of a Secretary. Commissioner Roy added the need for a tie breaker if two people could not agree. The ED expressed hesitancy with giving two Commissioners the potential to override an administrative decision. The Chair noted observations with other entities and the role that outside counsel played in the process. The ED stated that the Commission had used outside counsel, and he relayed their involvement in previous investigations.

The Commission took a short recess.

- Mediator Podziba asked for further feedback on the Accountability, Checks and Balances section. Commissioner Roy asked Mediator Podziba about No. 6(f) and Mediator Podziba clarified that the Chair and Executive Director would notify appointing authorities of complaints and would defer to outside counsel if they disagreed. Commissioner Concepcion asked whether there should be limitations on a Commissioner's access to staff resources who was not removed but had been reported. Mediator Podziba language to indicate that the ED and Chair could reallocate staff to be protective of them and other Commissioners.
- The discussion moved to No. 6(h) and whether it should be stricken. Mediator Podziba noted that the CPO had requested the proposed edit. Commissioner Concepcion mentioned a lack of language concerning when they would be notified about removal and Mediator Podziba stated she would clarify that point.
- Mediator Podziba moved to the Professional Development section of the Charter and requested feedback. The Chair mentioned the difference between recusals or filing disclosures. Commissioner Roy stated that this section was not clear as to how the ethics training was conducted. Mediator Podziba proposed an edit to indicate that the Commission would provide the ethics training and no Commissioners objected.
- Mediator Podziba moved to the Charter Adoption and Review section of the Charter and asked for feedback. The ED proposed an edit to No. 1 changing it from all Commissioners to three Commissioners because, when the section was previously discussed, the proposal was to be ratified by all Commissioners. The ED mentioned that he should not get a vote. Mediator Podziba asked if No. 1 should be ratified by a consensus of the Commissioners. Commissioner Stebbins asked if No. 1 should be



developed further. Mediator Podziba asked if everyone was in consensus and the Commissioners agreed.

- Mediator Podziba provided further clarity on the proposed Charter adoption and review process. Mediator Podziba read aloud the proposed language. Mediator Podziba stated they would need to get emergency review on a public meeting agenda and vote on it. The ED mentioned Roberts's Rules of Order (RROO) and opined about the process of forming subcommittees to review policies. The ED stated it could go in No. 3 or it could also build off No. 5 and proposed language. Mediator Podziba proposed language related to appointing of a sub-committee. The Chair she did not want to create a false expectation in staff that this is an open process.

The Commission took a short recess.

- Mediator Podziba started by reviewing all the sections of the Charter and went on to discuss the Purpose section. The Chair thought that the section was good and in the right place.
- Mediator Podziba then discussed the Background section. The ED proposed a language change and noted that No. 1 was the Commission's mission statement. Commissioner Roy mentioned the statutory mandate to develop public awareness campaigns. Mediator Podziba noted that Commissioner Roy's edits would be found in another section. The ED noted a language change on No. 7 regarding G. L. c. 94I.
- Mediator Podziba went on to discuss Roles and Responsibilities, the work that had been done on this section, and then asked for feedback. The ED opined that No. 1(g) referenced Commissioner Roy's suggestion regarding the statutory mandate to develop public awareness campaigns. The ED also mentioned No. 1(d) and felt that the Commission did not consider changes of location. Commissioner Concepcion noted that this authority was delegated to the ED. Mediator Podziba proposed language, and the ED modified this language. Mediator Podziba noted the ED comments, mentioned proposed language, and observed consensus between the Commissioners. Mediator Podziba raised the language in No. 1(d) and asked for any suggestions. The ED discussed No. 1(e) and explained the reasoning behind his proposed changes. Commissioner Concepcion wanted to include language about taking goals into consideration when approving the budget. The ED noted he would tie in Commission's strategic priorities to the budget. The Chair proposed changes to No. 1(e)(v) and distinguished between the budget and the ED's goals. Commissioner Concepcion stated that she agreed with the ED's proposed language, which the ED then reiterated. Commissioner Roy asked a question related to the ED Goals and how he was evaluated. Mediator Podziba noted the two changes and asked for any other changes.
- Mediator Podziba went on to review No. 2 regarding the Commission Chair, noting the edits thereto and solicited feedback. Commissioner Concepcion asked a question related to (d) and Commissioner Stebbins believed that another Commissioner could call for a vote; he then asked who records it and proposed a language change related to ascertain the vote. Commissioner Stebbins also proposed a change to No. 2(f) to include "ascertain." Mediator Podziba noted her reasoning behind adding the word



“Commissioner” in No. 2(f) and Commissioner Concepcion noted that “Commission” would be more appropriate in No. 2(f). The Chair proposed a change to No. 2(j) to include the ED, to which the ED agreed. Commissioner Concepcion added that it should mirror what was included in the budget section. Commissioner Roy mentioned No. 2(k) and the ED agreed that the provision should include internal communications.

- The Chair asked about the effective date of the regulations being on November 9<sup>th</sup> and the ED stated that it would be discussed at an upcoming public meeting.
- Commissioner Roy asked for edification around work and project assignments. She further asked how it would function if several Commissioners wanted to be a part of a working group. Commissioner Stebbins noted that he did not think of working groups as it related to No. 2(k). The ED opined that No. 2(h) would change the role of the Chair of the Cannabis Advisory Board (CAB). Mediator Podziba asked if everyone was comfortable with the edits to No. 2(k). The ED asked how they would find ways to preserve the Chair’s authority to manage assignments. Commissioner Concepcion noted that the edit codified the process. The ED mentioned consultation with Commissioner’s vote and added there was no formal liaising to the CAB. He added that the CAB was its own independent entity to advise the Commission and there was no statutory mandate for the Commission to oversee the CAB. Mediator Podziba asked if No. 2(h) accommodated for the CAB, and a further discussion about the CAB ensued. Mediator Podziba asked how Commissioners came to serve on subcommittees. Commissioner Concepcion noted the way No. 2(f) was constructed and asked if the structure worked for No. 2(h). The Chair noted the possibility of noninterest and the need to fill the role. Mediator Podziba proposed language for No. 2(h). Commissioner Stebbins mentioned that the conversation could happen at a public meeting. The Chair was concerned about structure. Mediator Podziba proposed language.
- Mediator Podziba went on to review No. 3, and there were no requested edits.
- Mediator Podziba went forward to review No. 4, The Commission Secretary section. Mediator Podziba noted a question related to No. 4(c) regarding the legal department. Commissioner Stebbins stated his reasoning behind adding the section. The Chair noted that she initially saw this section as the Chair, but she understood why it was under the Secretary role. The ED stated that the Secretary was responsible for ensuring the Commissioners were involved in the trainings. Mediator Podziba asked if “required” or “requested” was a better word for the section. Mediator Podziba proposed some changes to the language and added that it should be in conjunction with the legal department. Mediator Podziba suggested “convene” would be preferable to “facilitate.” She explained why No. 4(g) was included.
- Mediator Podziba discussed No. 5, The Executive Director section. Commissioner Stebbins proposed a language change for No. 5(b), and Mediator Podziba agreed. The ED proposed a change to No. 5(h) and noted his reasoning behind the proposed edits. Commissioner Roy noted that the ED represented the Commission at a national level and asked if that should be incorporated in the section. Commissioner Roy asked how the ED would function if cannabis became rescheduled. Commissioner Stebbins discussed external stakeholders. The ED mentioned language included in the Communications





section and Commissioner Camargo discussed the ED evaluation. The ED provided an example of when Maine requested that he testify regarding their medical program and noted that his approach might not have been the approach that a future ED would take. Mediator Podziba asked if the ED wanted to include language to that aspect. The ED noted that the Charter made the role of Commissioner seem very bureaucratic and commented that there was more to the role. Mediator Podziba mentioned the role of the job description. The ED stated most of the description was pulled out of the statute and mentioned he thought discussion on policy development and advice was missing. He also proposed changes to No. 5(c) and (d). Mediator Podziba proposed language.

- Commissioner Concepcion asked if the new No. 5(c) could folded into the national conferences. Commissioner Stebbins added that in that aspect the ED served as the subject matter expert. Commissioner Roy asked how they would keep it in line with the goals of the Commission. Mediator Podziba noted that when hiring the next person would need to be a subject matter expert. The ED suggested if they did not, then they would not represent the Commission. Mediator Podziba proposed language and also asked if the will of the Commission would suffice. The Commissioners confirmed.
- Mediator Podziba moved to review the Public Meeting Agenda Setting section and asked if there needed to be any edits to the section. Commissioners discussed possibility of the new business section of public meetings being built into the process in No. 2(f) was discussed. Commissioner Camargo noted they had not voted on the process. Commissioner Stebbins wanted to revisit the topic before it was discussed in Governance, noting that there was a possibility of including it into a new section. The ED identified the source of the topic and observed how the process had helped in the past; he also proposed some language. Commissioner Stebbins mentioned he believed it could be baked into No. 2(f). Commissioner Stebbins noted the opportunities to ask about an item, or for it to be included on future agendas and expressed that the agenda should not be used as a weapon. Mediator Podziba proposed language to No. 2(f), to which Commissioner Concepcion and Commissioner Stebbins agreed.

The Commission took a short recess.

- Mediator Podziba went on to discuss the Executive Director Goals section and the Commission did not request any changes.
- Mediator Podziba went on to review the Interactions Between and Among Commissioners and Executive Director, Leadership Teams and Staff section. After a brief review of sections, Mediator Podziba started with number four, asking if the Commissioners approved the edits. Commissioner Concepcion asked if DH and direct reports (DR) were different; the ED noted that the CPO was also a DR and that the Chief Financial Accounting Officer was not a DR. Commissioner Roy asked if (1) the status of DR changed and (2) the list of DR changed, would that limit the ED's ability to change DR. Mediator Podziba proposed language. The ED noted that the Director of Research (DOR) reports to the Chief Operating Officer (COO). The Chair asked about potentially adding the DOR as a DR; the ED noted the rub with that amendment. The ED replied to the Chair asking how Commissioners should communicate with the DOR and whether



they should work with the COO directly. Commissioner Concepcion noted Commissioner Roy's comments related to the changes in structure and title. The ED noted he had only restructured once.

- Mediator Podziba asked how to funnel requests for staff resources. The role of the Executive Assistant was discussed, particularly after a Commissioner asked for resources. The ED noted how requests for staff resources had worked in the past and mentioned some of the issues. Commissioner Concepcion expressed how she had handled asking DR for resources and asked whether that was the best approach. The ED thought that it was and explained why. The ED stated that Commissioners requests may come back to him but sometimes not as intended. Commissioner Roy asked to who IT reported. The ED answered that they report to the COO. The ED mentioned the helpdesk for immediate feedback regarding technological support.
- Commissioner Camargo inquired about receiving the list of staff-identified topics. The ED felt that the problem in that instance was not at the Commissioner level but at the staff level. Commissioner Camargo noted No. 4 and how staff could interpret that bullet point. Commissioner Stebbins mentioned they may need to talk to someone about an agenda item, and he hoped the ED would be comfortable with that outreach. The Chair noted that the tension when trying to get quick answers to questions.
- Mediator Podziba discussed the Commissioner's desire for quicker answers to easy questions. The ED perceived the request as more complex than the Commissioner realized when asking the question and he reminded Commissioners of the importance of staff providing the right answer. The ED noted that Commissioners could go directly to a DH such as the Director of Government Affairs. Commissioner Roy suggested that they be mindful of real-world exceptions. Mediator Podziba proposed some language changes to No. 4. The Chair stressed that people need to return phone calls and fix the culture. Mediator Podziba discussed intricacies in the proposed change to No. 4, and also reviewed exceptions to No. 4. The ED suggested that DH need to be informed when a communication was requested from their staff. The ED observed that direct communications with staff potentially involves circumventing that staff member's superiors.
- Commissioner Roy noted the Diversity, Equity, and Inclusion Access and Equity Groups presentation, asking if this was a preferred method. The ED said the presentation was handled in this way in response to a historical issue. The discussion then centered around when and why Commissioner's requests for information were denied. A hypothetical was posed regarding needing information that only the staff had, but which Commissioners could not otherwise obtain; and how this situation was actually handled. Mediator Podziba discussed situations when a Commissioner could not go to a DH.
- Commissioner Roy introduced the topic of conducting tours to licensees. The Chair mentioned difficulty in being both in an adjudicatory and policy role. Commissioner Concepcion voiced that they were trying to work in accordance with the team. Commissioner Stebbins mentioned how he had handled tours in the past. The ED cautioned that wherever they toured a facility, that licensee's and their issues would inevitably end up on an agenda and reminded them of their need to remain impartial.





- Mediator Podziba asked for feedback in terms of No. 5. Commissioner Camargo asked Mediator Podziba to review No. 4. Mediator Podziba reviewed No. 4 and asked if No. 5 and No. 6 were still necessary. In reference to No. 4, the ED mentioned that he did not know what “staff support” meant.
- Mediator Podziba asked if Commissioners were comfortable with No. 6. Commissioner Concepcion mentioned that she did not know what “long term engagement” meant. Mediator Podziba explained why No. 6 was originally included, and again asked if No. 5 and No. 6 could be eliminated. The ED noted a situation where No. 5 could be useful. Commissioner Camargo mentioned an example of a meeting request. Commissioner Stebbins noted culture and explained that staff should feel free to push back.
- Mediator Podziba asked for feedback on Nos. 5 and 6. Commissioners and the ED discussed the how to best request staff resources. The ED observed how one meeting could often result in multiple meetings. Mediator Podziba understood that not everything would be a one-time engagement. The Commission agreed to eliminate No. 6.
- Mediator Podziba asked if in No. 8 the language should read (1) working group or (2) project charters or (3) working groups. The ED explained the internal regulatory context for working groups, and that every project received a project charter. Mediator Podziba and the ED agreed for the purpose of the Charter, the term used would be “project charters.”
- Mediator Podziba discussed the next steps, the role of a virtual meeting and outreach and consultation. The Commissioners discussed the upcoming meetings and processes. Mediator Podziba discussed job descriptions for the Commissioners and the ED. She proposed she would take what was in the roles and responsibilities section to produce job descriptions and would send those out for their feedback.

### III. Adjournment

- Commissioner Stebbins moved to adjourn 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.

