



CANNABIS CONTROL COMMISSION

March 1, 2023

In-Person

EXECUTIVE SESSION MEETING MINUTES

Documents:

- Discussion Items for Executive Session 12
- 20230228 Draft Charter V10
- Policy Template
- Process Template
- May 2020 Employee Handbook, Pages 18 and 19
- Draft Fiscal Year 2021 Media Calendar
- Draft Messaging Matrix
- Office of the Comptroller – Key State Finance Law Compliance Roles and Responsibilities

In Attendance:

- Chair Shannon O'Brien
- Commissioner Nurys Camargo
- Commissioner Ava Callender Concepcion
- Commissioner Kimberly Roy
- Commissioner Bruce Stebbins
- Executive Director Shawn Collins
- Mediator Susan Podziba
- Paralegal Sabiel Rodriguez

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)



- Governance Mediation Vendor Susan Podziba (Mediator Podziba) gave an overview of the discussion items and noted the work that had been completed since the last Executive Session.
- Mediator Podziba moved to review the Draft Charter’s new title, “The Massachusetts Cannabis Control Commission Charter, a Document to Promote a Positive Workplace and Good Governance.” Commissioner Camargo suggested removing “a Positive Workplace and” as it indicated that the workplace was currently negative. The Chair stated that the Charter could not address cultural issues and that she agreed with Commissioner Camargo. Executive Director Shawn Collins (ED) agreed with deleting the phrase but noted that he intended to address workplace issues. Commissioner Stebbins also stated that he planned to work with Human Resources to work towards a more positive workplace.
- Mediator Podziba moved to review the Draft Charter: Purpose section. The Chair suggested including the word “positive” in addition to “productive”. Commissioner Roy requested including the word “cooperative” as well. Commissioners reached a tentative agreement on the section. Commissioner Concepcion noted that the abbreviation “Commission” should be defined here rather than in the “Background” section.
- Mediator Podziba moved to the Draft Charter Section: Background and noted a recent edit expressing that the Commission was an independent state agency. The Chair stated that she did not like the statement as it seems to insulate the Commission from taxpayers and the Commissioners from their respective appointing authorities. The Commissioners and ED discussed whether this language should be included. Commissioner Roy proposed that the language be flipped to include the statute first before stating that the Commission is an independent agency. Mediator Podziba asked for the Commissioners to read the rest of the section. The ED asked if Commissioners were comfortable with No. 6 and if it allowed for them to take up issues outside of their specific area of interest. The Commissioners indicated that they thought this section addressed that issue. Mediator Podziba asked if there was a tentative agreement as to the “Background” section and Commissioners confirmed.
- Mediator Podziba moved to review the Draft Charter Section: Roles and Responsibilities and asked for feedback on No. 1(a)(iii). The ED noted his preference to replace “leadership” with “staff.” He stated that leadership roles would be specified in other living documents, and it was not necessary here. The Chair stated that one of the purposes of the Charter was to delineate the primacy of the ED’s role. The ED stated that the Commissioners should have the ability to work with staff without having to go through the ED. Commissioner Stebbins proposed language to indicate that the Commissioners would work through the ED, who could then give them a green light to work with staff directly. The Chair stated her preference was to have an unfettered access to communicate with staff and noted that the ED should be involved when requesting resources. Mediator Podziba cautioned Commissioners against including language that may preclude them from working with the ED. Commissioner Stebbins suggested breaking down the two concepts further. The Chair noted that this is accomplished in a later section. Commissioner Roy confirmed that there was agreement to remove Direct



Reports and leadership in No. 1(a)(iii). The ED suggested adding a romanette under No. 1(a) which stated the Commissioner's obligations to the Commonwealth, taxpayers and stakeholders. Mediator Podziba summarized the changes to No.1(a). Commissioners and the ED discussed when to use "Cannabis" versus "Marijuana." Mediator Podziba summarized the preference of the Commissioners to use the word Cannabis unless in reference to statutes which use the word "Marijuana." Mediator Podziba moved to review No. 1(d)(i) relating to suitability issues. Commissioner Roy stated that she would like the Charter to state that Commissioners were encouraged to visit Licensees but noted that it might not be in this section. Mediator Podziba moved to the edit to No. 1(d)(ii) regarding the adjudicatory and prosecutorial responsibilities which had been suggested by General Counsel Christine Baily (GC Baily) at the last meeting. Commissioner Roy suggested an edit so that the section would read that Commissioners would "understand" their prosecutorial and adjudicatory roles, instead of "maintain separation between" them. Commissioners and the ED discussed the distinction between their adjudicatory and prosecutorial roles. The Chair stated that she did not want staff to refuse directives based on their understanding of the Chair's ethical mandates. The ED noted that staff should be able to refuse to speak to Commissioners on matters on which they are recused. Mediator Podziba moved the conversation back to the Charter and asked that they table No. 1(d)(ii) and move on to No. 1(e - g). The Chair suggested including "but not limited to" in No. 1(f), so that Commissioners would be free to speak to issues outside of their topic-specific expertise. Commissioner Roy reiterated her comment related to visiting licensees and the ED stated that point should be No. 1(g)(i). Mediator Podziba proposed language to include Commissioner Roy's comments. Commissioner Roy asked if a future Standard Operating Procedure (SOP) could prevent them from visiting Licensees and the ED noted that they had considered bringing SOPs before the full Commission.

The Commission took a short recess.

- Mediator Podziba moved to review the Draft Charter Section: Interactions between and among Commissioners and Executive Director, Leadership, and Staff, and asked for feedback on No. 10. Commissioner Stebbins suggested replacing the word "issues" with "functions." The ED indicated that he was hesitant about subjectivity in determining which SOP was a priority. The Commissioners and ED discussed how to include that the Chair would work with individual Commissioners to determine their priority SOPs while remaining compliant with Open Meeting Law. Mediator Podziba reviewed the proposed language to include that the Chair would work with individual Commissioners to determine their priority SOPs and, while the ED would ultimately approve them, Commissioners would provide input. Mediator Podziba noted that this topic came up when discussing the Roles and Responsibilities section and moved back to see if they could come to a tentative agreement on that section.
- Mediator Podziba reviewed the Draft Charter Section: Roles and Responsibilities and asked if there was a tentative agreement on No. 1(a-c, e-g) with the proposed changes, and the Commissioners agreed. Mediator Podziba moved to No. 2(c) and discussed an



edit which had substituted “regular” for “normal.” She confirmed Commissioners were in agreement. She then moved to No. 3 and the Chair asked for clarification on the practical implications of an edit which indicated that the Treasurer was responsible for developing an understanding of state finance law compliance. Commissioner Camargo requested that they table the topic which she would discuss with GC Baily offline. Commissioner Roy asked for clarification on the practical implications of No. 3(d), which stated that the Treasurer would prepare the Chair to speak on the Commission’s budget to the Joint Ways and Means Committee. The Chair stated that, in her opinion, the ED should lead that process in conjunction with Government Affairs and the Chair. Commissioner Stebbins suggested striking this section as these responsibilities were described elsewhere. The Chair stated that she preferred the way this responsibility was described in the Budget section and suggested striking No. 3(e – f) in this section. Mediator Podziba asked if Commissioners would prefer to strike No. 3(d) and 3(f) or to copy over the language from the Budget section. The Chair emphasized that she wanted to make sure that Commissioners and the ED could strategize legislative outreach appropriately. Mediator Podziba read No. 5 from the “Budgeting and Budgeting Process” section to be incorporated in “Roles and Responsibilities.” Commissioner Roy suggested a further edit to make clear that the Treasurer would support the ED and Chair in legislative outreach strategy and the ED and Chair would lead that process. The Chair suggested including all Commissioners and the ED suggested adding the CFAO. Commissioner Roy requested replacing the word “ensure” with “promote” in No. 4(b)(v) to be more in line with the responsibilities of other roles and Mediator Podziba confirmed that the other Commissioners agreed with the change. Mediator Podziba moved to No. 5(j) and an edit from staff that the ED would act “in accordance with the law.” The Chair moved to strike this edit as that responsibility was self-evident and there were no objections. Mediator Podziba moved to No. 5(j)(v) which indicated that the ED would be responsible for hiring outside counsel. The Chair noted that outside counsel was more than a vendor for regular supplies and services as they could potentially impact Commission policy. She stated that she was not objecting but wanted to hear the ED’s opinion. He acknowledged that outside counsel could have more impact than a typical vendor and listed some ways that they were used. Commissioner Roy asked the ED if this section would have given him the latitude to address the EVALI crisis and public health crises going forward. The Chair asked that he review the Charter offline to determine if it gave him the power that he may need in emergency situations. The ED suggested removing “leadership” from No. 5(a) and No. 5(i). Mediator Podziba moved to No. 5(r), regarding the ED’s responsibility to address litigation in coordination with GC and the AGO. Commissioners and the ED discussed the significance of threatened litigation which would prompt notice to the Commissioners. Commissioner Roy suggested an edit to include that Commissioners would be notified of threatened litigation when appropriate.

The Commission took a short recess.



- Mediator Podziba asked if there was consensus on No. 5(r) under Roles and Responsibilities. Commissioner Roy requested adding that the ED would inform Commissioners of threatened litigation when appropriate.
- Mediator Podziba moved to review Draft Charter Section: Public Meeting Agenda. She noted consensus on No. 1 and then moved to No. 4 regarding who would preside over Public Meetings which were called by three Commissioners rather than the Chair. She reviewed a memorandum prepared by GC Baily which indicated that, at that meeting, the first order of business would be to determine who would serve as Chair. Mediator Podziba confirmed that there was consensus on this edit.
- Mediator Podziba moved to review the Draft Charter Section: Interactions between and Among Commissioners and Executive Director, Leadership and Staff. She noted that the title of this section needed to be changed as the Commissioners had decided not to use the term “Leadership.” The ED suggested striking “leadership,” and Commissioners agreed. Mediator Podziba reviewed the opening paragraph and asked that they circle back after reviewing the rest of the section. She noted that the edit to No. 1 was her edit in response to direction given at the last meeting and that it should be less contentious. Mediator Podziba confirmed consensus on this point and moved to No. 5 as its addition was the rationale for further edits. The Commissioners agreed to No. 5. Commissioner Roy asked for clarification on No. 1. The Chair discussed the supervisory chain of command and explained that Commissioners were free to talk with staff, but if resources were involved, then that request needed to come through their supervisor. Commissioner Concepcion asked if that was clear to staff and the ED responded that supervisors would discuss this with their staff. Mediator Podziba confirmed consensus on No. 2 and moved to No. 4. The ED stated that he thought the way that staff were identified in this section was appropriate. The Chair asked if No. 4 conflicted with No. 5 and if No. 4 was necessary in light of No. 6. She asked the ED for his thoughts, and he indicated that they could be merged. Mediator Podziba suggested an edit to indicate that information and staff resources should be requested through supervisors. Mediator Podziba summarized her suggestion to strike No. 4 and include a section similar to No. 6 which applies to requests for information from staff. Commissioner Concepcion stated she thought that did not capture the communications which Commissioners have with the ED. Mediator Podziba suggested editing No. 4 to indicate that Commissioners may directly contact the ED and Direct Reports and Department Heads with notification to the ED. The ED suggested including that this related to official business. Mediator Podziba stated that they would come back to determine if this paragraph was necessary. Mediator Podziba asked for confirmation on whether No. 8 could be stricken and no one objected. She then moved to No. 10 and proposed language to indicate how priority SOPs would be identified. Regarding No. 11(a), the ED expressed concern regarding holding staff to an estimated timeline. The Chair stated that this was a concern for Licensees who were frustrated by a lack of communication regarding investigations. Commissioner Concepcion explained that this may fall in the scope of Investigations and Enforcement, and not with the Commissioners. She suggested eliminating “estimated timelines” from 11(a) and including the phrase “including but not limited to,” so that timelines could still be requested, but without the same burden on staff. The Chair stated that she wanted to



make sure that Licensees could get information on investigations. The ED stated that there was some tension, but that No. 11(c) covered this topic. Commissioner Roy suggested including “if available” to the estimated timeline item and Commissioner Concepcion confirmed she was agreeable with that edit. Mediator Podziba found consensus on No. 11 (b - d). On No. 11(e), the ED suggested changing “investigation” to “pending matter.” On No. 11(f), Commissioner Roy expressed concern that it could prevent Commissioners from going to a Marijuana Establishment or Marijuana Treatment Center outside of their official capacity. Commissioners and the ED discussed best practices for visiting Marijuana Establishments and Medical Marijuana Treatment Centers outside of their official capacity. Mediator Podziba proposed language to include the phrases “official capacity” and “planned.” Mediator Podziba found consensus on No. 11(g) and asked for confirmation that Commissioners were in consensus to send this section to Enforcement staff for review. She noted that No. 12 had been moved to a different section. Mediator Podziba noted that No. 11 had been stricken and asked Commissioners for feedback. Commissioner Concepcion suggested keeping it and including that Commissioners would only be notified of threatened litigation if it was significant. Commissioner Roy suggested including the words “sufficiently significant.” Mediator Podziba asked for feedback on No. 13 and the ED suggested striking the word “serious.”

The Commission took a short recess.

- Mediator Podziba moved to review the section on Legislative and Executive Branch Outreach and noted consensus.
- Mediator Podziba moved to review the section Press, Media and External Engagement. She noted that Chief Communications Officer Cedric Sinclair (CCO Sinclair) had provided internal Communications documents which would be updated to reflect the Charter and reiterated the staff’s request to rely on SOPs from the last meeting. She noted that the appendix titled “strategic messages” related the most to Commissioners and asked them to review it before editing this section of the Charter. Moving to Nos. 1 and 2, she reviewed the edits and asked for feedback. She reiterated CCO Sinclair’s request to rely on SOPs and only include Nos. 1 and 2. The Chair noted concerns. Commissioners and the ED discussed how to address the Chair’s concerns. Mediator Podziba summarized Commissioner’s comments that there was not an issue with relying on SOPs, but that there were internal issues that needed to be addressed. Commissioner Stebbins suggested including that the Chair was the spokesperson for the Commission, but also that the ED’s role should be clarified. The ED stated that he would speak to administrative topics. Commissioners and the ED discussed how to better involve Commissioners in responses to press inquiries while allowing Communications to remain nimble. Mediator Podziba asked for feedback on how to change this section to incorporate this discussion. The Chair stated that, while remaining compliant with Open Meeting Law, press responses should be coordinated between Communications, the ED, and herself. Commissioner Concepcion noted that Public Meetings could serve as a



forum for the Chair to address the public. Commissioner Camargo suggested that the Chair work with the ED offline and come back at the next meeting with concrete steps on how to address this issue. Mediator Podziba stated she would draft something based on what she heard and would send it to Commissioners for their feedback. The Chair stated that she was comfortable with eliminating most of the section and relying on SOPs. Mediator Podziba confirmed that Nos. 3 – 6 could be eliminated and instead rely on SOPs and Nos. 7 and 8 should remain in the Charter. Commissioner Stebbins asked if Commissioners could voice their opposition to matters which were approved by the Commission, but which they did not vote in favor of under No. 8. The ED stated that Commissioners were able to speak their minds. Mediator Podziba moved to discuss the ED's responsibility to determine where the interests of the Commission and the interests of the Commission and a Commissioner may diverge. The ED stated that this was a critical point and should remain in the Charter. The Chair noted that there must be clarity on No. 10 and cited a recent experience where she submitted a statement to Communications which was not shared with the press. The Chair preferred that No. 11 be stricken and to instead rely on an SOP. She also mentioned that No. 12 should remain in the Charter. Mediator Podziba then confirmed that they were in consensus to remove No. 13, and instead rely on an SOP.

- Mediator Podziba reviewed next steps and stated she would incorporate edits before the next meeting.

III. Adjournment

- Commissioner Roy moved to adjourn executive session.
- Commissioner Stebbins 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.

