

CANNABIS CONTROL COMMISSION

November 30, 2023
10:00AM

In-Person with Remote Participation via Microsoft Teams

EXECUTIVE SESSION MEETING MINUTES

Documents:

- 20231129 Drafter Charter
- CCC Draft Charter Press Media Engagement Section 3.28.23-Comms Feedback

In Attendance:

- Acting Chair Ava Callender Concepcion
- Commissioner Nurys Z. Camargo
- Commissioner Bruce Stebbins
- Acting Executive Director Debra Hilton-Creek
- Associate General Counsel Michael Baker
- Mediator Susan Podziba

Minutes:

- I. Call to Order
 - The Acting Chair Ava Callender Concepcion (AC) called the Executive Session 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).
 - The AC discussed the agenda for the day. She noted the absence of Chair O'Brien ("Chair") and Commissioner Roy. She mentioned that their absence would make obtaining consensus to finalize the Charter difficult. Mediator Podziba commented on the updated Charter document and noted the goal for the day was to get as close to a final document as possible. The Acting Executive Director (AED) noted her prior experience working on similar documents. Mediator Podziba explained the changes in the document and mentioned who had been involved in past sessions. Commissioner Stebbins noted the importance of completing this document in order to attract talented applicants for the new Executive Director (ED) role.



- Commission Camargo noted the challenges from the statute pertaining to the roles of the Chair and Executive Director. She mentioned the past rub between Chair and the ED. She stressed the importance of drafting adequately to accommodate new Commissioners. Commissioner Stebbins noted the value of the mediation process. Commissioner Camargo opined that Shawn Collins was helpful when he imparted his institutional knowledge of the agency.
- Mediator Podziba moved to the Background section of the Charter. Commissioners reviewed and had no requested edits on this section.
- Mediator Podziba moved to the Roles and Responsibilities section and noted that Commissioner Roy had expressed concern that No. 1(e) granted too much control over the administrative agency to the ED. Commissioner Camargo explained the delegated powers to the ED, in response to a query by the AED. Mediator Podziba noted that authority could be delegated to the ED by the Commissioners. She explained the difference between the sections, and the current section pertained to the responsibilities of the Commissioners, and suggested language to obtain consensus.
- Commissioner Camargo asked if the AED could spot issues with the current drafted wording. The AED noted that with the implementation of Chapter 180 and how the language could be confusing. Commissioner Camargo explained that some policies could be delegated, and that this language may possibly be moved to the administrative section. After a discussion about language refinements, Mediator Podziba suggested language to clarify delegation of work from the Commissioners to the ED, as it pertained to statutory responsibilities. In response to Commissioner Stebbins, Mediator Podziba clarified that the language would fall under (b). Commissioner Stebbins discussed the policy making role and that the role of the ED would be implied to have policy delegated to them. He noted the statute and its intersection with these responsibilities. Agreement was reached regarding delegation language and where it should be placed under No. 2(e). Mediator Podziba asked whether there was consensus on the Roles and Responsibilities section. Associate General Counsel Michael Baker (AGC Baker) explained that certain sections of Chapter 55 of the Acts of 2017 became Section 76 of the Massachusetts General Laws. Commissioner Camargo asked if Commissioner Roy’s question was addressed regarding if Commissioners should have administrative roles. The AED explained checks and balances; the ED exercised administrative roles, such as hiring and firing personnel, but that the Commissioners were to hold the ED accountable over staff of the Commission. “Hiring, disciplining and terminating” were discussed in terms of language to be inserted as part of the ED’s role.
- Mediator Podziba moved the conversation to the No. 2 in the Roles and Responsibilities section. Commissioner Camargo mentioned her issue with the language in (c). She noted that she was not clear what the language meant regarding the Chair’s responsibilities to “coordinate Commission work;” Mediator Podziba provided clarification. The AC recalled a past conversation on the topic of the Chair’s responsibility, and in light of statutory language. Mediator Podziba explained her understanding that the Chair could assign work to Commissioner. The AC explained that the Chair cannot force a Commissioner to do certain tasks. Commissioner Stebbins explained that the Chair should be aware generally about what the Commissioners are working on, and that the



language ought to be altered to reflect the reality. Mediator Podziba noted the potential for abuse existed with the Chair's role to assign work. The AED explained that the current language may give a supervisory role to the Chair; language that reflects a more collaborative approach may be better suited. Mediator Podziba offered new language to reflect the Chair coordinating work with Commissioners. Consensus was reached on this language.

- Mediator Podziba moved to No. 2(f) in the Charter and read it aloud. The AC explained her interpretation of the statute and language regarding the Chair designating to act in their stead, when absent. Commissioner Stebbins suggested including executive sessions in this section; ultimately it was agreed that executive sessions were included in the definition of public meetings. Commissioner Camargo discussed the second sentence in No. 2(f) and argued that there were two scenarios at play. Mediator Podziba explained the difference between the two scenarios; one, where the Chair was temporarily absent, and the second scenario, where the Chair was not present on a long-term basis. Commissioner Stebbins explained his perspective on the language and offered an alternative to second sentence. Commissioner Camargo disagreed, preferring to not have a role allocated into the Acting Chair's position. The AED explained that the roles will switch by January, and that a designated role might not be the best way to choose the next Chair. Mediator Podziba explained the differences between the two situations; (1) immediate absence, such as when a Chair is hit by a bus, but is returning relatively soon, as opposed to (2) a long-term absence. She reiterated the need to have both scenarios taken into account. The AED mentioned she did not see a difference in short term and long term. Commissioner Camargo explained that the language read like a will on who will take over for the Chair in the Chair's absence. Mediator Podziba suggested a language change around designating a default Chair. Commissioner Stebbins explained two hypotheticals that concerned him regarding the Chair's absence; the first being long-term and the second being an emergency. The AED described her past experiences in the military and related it to the Chair's absence. She offered ranking by tenure could be used in the Chair's absence. Commissioner Camargo noted Commissioner Stebbins' past comments and noted the need to address the emergency situation to avoid an issue with voting. Mediator Podziba asked for preferences under an emergency situation. Commissioner Camargo explained that by tenure would not work because she and Commissioner Stebbins started on the same day. She explained that it makes more sense to elect either the Treasurer or Secretary to serve in the Chair's absence. Mediator Podziba noted that the Chair had the statutory authority to appoint an interim Chair in their absence. Commissioner Stebbins reiterated his two hypotheticals mentioned before and explained the hypothetical where the Secretary is also unavailable. He addressed the consideration of when the Chair is absent on a long-term basis. The AC believed that the third option here could be put into a different section. She explained her understanding of the statute. Commission Camargo affirmed. Mediator Podziba raised the scenario when the Chair was suspended or terminated. The appointing authority's role was discussed, particularly when a Chair stepped down, as opposed to being suspended. Commissioner Stebbins commented that the Treasurer appointed the Chair. Mediator Podziba explained that the second sentence



would be removed to the role of the Secretary and that the third sentence would be amended.

- Mediator Podziba moved the conversation to subsection (j), and she read aloud the drafted language. The interplay between the ED and the Chair regarding the budget was discussed, as well as including the option to allow additional persons to testify at the State House. The AC clarified that the ED and the Chair should be the people who made the determination regarding who would testify. The AED mentioned the potential for a Commission expert to assist in testifying at a budget hearing.

The Commission took a short recess.

- Mediator Podziba moved to the Press, Media and External Engagement section and opened up the conversation for discussion. Commissioner Stebbins opined that generally the listing of the order of items dictated their relative priority. Mediator Podziba asked about the role of the Chair relative to being a primary spokesperson, and what is the role of the other Commissioners being spokespersons. The language was adopted regarding the role of the individual Commissioners being spokespersons, and that the Chair could be the de facto spokesperson. The ED could be the spokesperson on administrative matters. Commissioner Stebbins explained that this language was put into the Charter because of unexpected situations or tragedies and to give guidance to staff during those emergencies. Particularly in unexpected situations, the de facto spokesperson-ship of the Chair would be very important, given the need to have one person to give voice for the Commission in an emergency. Mediator Podziba summarized the conversation thus far changing No. 3, which has now become No. 2. Commissioner Camargo raised the topic of the tragedy in Holyoke and the need to have real-time responses. She suggested the Chair must have the authority to be the spokesperson in urgent situations. Mediator Podziba suggested language acknowledging that the Chair was the leader of the Commission and is the de facto spokesperson on urgent and general matters. She commented that the ED was the acknowledged de facto spokesperson on Commission administrative matters and that all Commissioners are spokespersons on vetted and approved matters. She reiterated that no Commissioner shall speak on behalf of the Commission regarding a policy that has not been fully vetted and approved by an affirmatively vote by three Commissioners. There was discussion regarding how proposed language in No. 4 possibly contradicted No. 11. Mediator Podziba restated the language, and the AC noted the consensus on the language. Commissioner Stebbins raised the possibility of consolidating the language between six and seven. Commissioner Camargo explained why she wanted to leave the language in this section. Mediator Podziba offered alternative language to capture both Commissioner Camargo and Commissioner Stebbins' concerns. Mediator Podziba noted the consensus on removing number 8.

The Commission took a short recess.



- Mediator Podziba revisited the discussion where it left off. Commissioner Stebbins explained an instance where he was singled-out to speak at an event and offered amended language. Commissioner Camargo noted that this document singled-out the department and not all of the departments. The AC agreed and explained that the language could apply to all departments. Mediator Podziba summarized the changes discussed. Mediator Podziba offered further amended language and, then after a brief discussion, noted consensus on the amendment.
- Mediator Podziba moved to the next paragraph labeled as number 9 and she noted consensus.
- Mediator Podziba moved to the next paragraph labeled as number 10. Commissioner Stebbins noted the draft language would allow for the ED to have an ability to push back on a Commissioner who was seeking staff resources for a policy that was not voted on by the Commission. Commissioner Stebbins gave an example of a situation where this paragraph would come into effect. The AC gave an alternative example that showed a need for protections pertaining to staff interactions with Commissioners. Commissioner Stebbins mentioned an alternative scenario relative for the need to distinguish between Commission business verses personal business. Mediator Podziba noted consensus.
- Mediator Podziba moved to number 11 and noted consensus.
- Mediator Podziba moved to number 12. Commissioner Stebbins offered amended language and Mediator Podziba noted consensus. Mediator Podziba asked to take a break to print up the new draft.

The Commission took a short recess.

- Mediator Podziba reviewed the new draft and noted consensus.
- Mediator Podziba moved to Charter Adoption and Review section. Mediator Podziba read the amended language and noted consensus on the topic. Commissioner Stebbins raised an example of one situation, and whether the Commissioners should have been notified about the situation when it arose. He asked whether the CIE should have the ability to approach Commissioners with these types of incidents. Mediator Podziba commented upon the language whereby the ED would be required to notify the Commissioners of such matters. Commissioner Stebbins discussed the ED's goals and whether they should be on a fiscal verses calendar year. Mediator Podziba offered language. Commissioner Stebbins explained that both fiscal and calendar year should be used to offer flexibility to the Commission. AGC Baker suggested that the AC confer with the General Counsel regarding next steps and a legal review of the document. Mediator Podziba congratulated the Commissioners on their hard work.

III. Adjournment

- Commissioner Camargo moved to adjourn the executive session.
- Commissioner Stebbins seconded the motion.
- The Acting Chair took a roll call vote:
 - Commissioner Camargo – Yes
 - Commissioner Stebbins – Yes



- Acting Chair Concepcion – Yes
- The Commission unanimously approved the motion.

