

Commonwealth of Massachusetts



STEVEN J. HOFFMAN
CHAIRMAN

CANNABIS CONTROL COMMISSION

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CANNABIS CONTROL COMMISSION PUBLIC MEETING MINUTES

December 11, 2017 10:30 a.m.

101 Federal Street, 12th Floor
Boston, MA

COMMISSION MEMBERS IN ATTENDANCE

Chairman Steven Hoffman
Commissioner Kay Doyle
Commissioner Jen Flanagan
Commissioner Britte McBride
Commissioner Shaleen Title

COMMISSIONER MEMBERS ABSENT: None

LIST OF DOCUMENTS:

1. Presentation:
<https://www.mass.gov/files/documents/2017/12/12/121117PostedCommissionMeeting.pdf>
2. Report: "State Medical Marijuana Social Equity Plan Comparison"
<https://t.co/6MnbJs11c5>

Chairman Hoffman called the meeting to order at 10:30 a.m. and noted that the meeting was being recorded. He thanked the Gaming Commission, once again, for their generosity in allowing us to use their facilities and explained that the meeting today, December 12 and December 15 would be in this room. The Commission would meet at the Hurley Building on Wednesday and Thursday. The Chairman asked Executive Director Shawn Collins to introduce a new member of staff. Mr. Collins welcomed Maryalice Gill who would be working as program manager to the team.

The Chairman explained that the objective of the week is to agree on policies that drive the draft regulations. The Commission has developed draft regulations that will be modified as appropriate, based upon the Commission's conversations today. In some cases, the regulations have not even been drafted yet. Next week, the Commission will have taken the policy discussions and decisions and votes that the Commission make this week and turn them into draft regulations and have a set of meetings to discuss, vote on, and approve the draft regulations. The Commission has not discussed the policies ahead of time.

The Chairman thanked Commissioner Doyle and Commissioner McBride, for creating this structure. For each topic, one of the commissioners is going to take the lead explaining the issues,

background and options. After the conversation concludes, the Commission will vote. Mr. Collins will explicitly state what the Commission is voting on, so there is no confusion, no ambiguity. The Chairman also invited Mr. Collins to participate in the conversation due to his experience studying the issues. The information discussed at the meeting will be posted online. The Chairman discussed the anticipated schedule of the discussion over the course of the day and anticipated breakpoints. The Chairman said the conversation will begin today with the category of licenses the Commission is going to issue. The Chairman asked Commission Doyle to start the discussion.

Commissioner Doyle explained that many of the marijuana establishment types are driven by statute. She recommended that the Commission remain consistent with the wording in the statute and describes a marijuana cultivator as an entity licensed to cultivate, process, and package marijuana, to deliver marijuana to marijuana establishments, and to transfer marijuana to other marijuana establishments but not to consumers. She described the recommendations from both the Commission's industry and market participation subcommittee as to how to break down tiers of cultivators and what the method of measuring the tiers would be, that the measurement be by plant cultivation space, as opposed to counting the plants themselves, which some other states do. There are four tiers that are, essentially, apart by 1,000 and then, 5,000 feet, respectively. There is no cap. After 10,000 feet, a cultivator would have to pay a proportional fee associated with each additional 5,000 square feet of cultivation space. As there is no cap, there is an issue with method of production management. Commissioner Doyle recommended adopting Colorado's methodology of analyzing the past six months of sales for a registrant who would like to expand their production tier for whether or not 85 percent of the inventory has been consistently sold. Commissioner Doyle mentioned that some other states also require a cultivator to reduce their inventory if they were not consistently selling it, but she was not comfortable with that method at this time, due to the difficulties people may have getting up and running. She did want to flag the issue of inventory reduction for future discussion.

Commissioner Doyle identified the issue of attempting to expand production space by extending it vertically and stating that if plants are being cultivated using a vertical shelving system that the surface area of each level should be included in that canopy calculation. That way, the Commission captures what the cultivation space actually is rather than what it is on one horizontal plane. She asked the Commission if there were any questions.

Commissioner McBride asked if the fees go up as production expands. Commissioner Doyle agreed that it would. Commissioner McBride asked if the marijuana establishment decided that it wanted to reduce its production tier, would they do it at the time of renewal? Commissioner Doyle agreed that they would. Commissioner Title asked how the Commission was defining vertical levels. Commissioner Doyle explained she had been reading the definition earlier, but would read it again: "If plants are being cultivated using a shelving system, the surface area of each level shall be included in the total canopy calculation." Commissioner Doyle recognized that if there were different vertical growing structures, other than shelves, the Commission may have to adjust the definition. The Chairman commented that it would be the square footage of each level added up. Commissioner Doyle agreed. The Chairman asked if nurseries creating culture clones or plants that are then sold to cultivators, would be covered as marijuana cultivators. Commissioner Doyle agreed that they would. The Chairman asked if other states, particularly California, have different licensing requirements and structures for indoor versus outdoor cultivation.

Commissioner Doyle stated that the Commission's subcommittees that looked at that issue recommended that all of the cultivation space be combined into one for the calculation of square footage. The Chairman said that issue may come up again in the conversation about fees.

Commissioner Doyle asked if there were any further questions. There were none. The Executive Director stated that the Commission would be adopting the wording of the statute and embedding it into the regulation, and linking cultivation license to a particular address, adopting a tiered licensing structure. The tiers listed were: first, up to 1,000 square feet. The second tier is 1,001 to 5,000 square feet. The third tier is 5,001 to 10,000 square feet, and the fourth tier is 10,001 up with the ability to increase. Cultivators would be able to expand their production tier, so long as 85 percent of the inventory was sold during the previous six months. No one would be forced to reduce their inventory based on failure to sell 85 percent of their inventory as well. Commissioner Doyle clarified that the tier could be reduced voluntarily. Commissioner Title asked how applicants would estimate their production tier. Commissioner Doyle stated that existing medical marijuana operations should know what their cultivation space is, but others would have to project and at renewal time, the Commission can verify, but everybody should stay consistent with what they have projected or under. The Chairman asked about the vertical cultivation. Mr. Collins added that to account for square footage of each location, if the cultivation facility were to use a vertical shelving system that the square footage of each shelf would be count for the total square footage. Commissioner Doyle moved that the Commission accept the recommendation as read by Mr. Collins, Commissioner Title seconded. The Commission voted unanimously, 5-0, in favor of the recommendation.

The Chairman asked for discussion on craft marijuana cooperatives. Commissioner Doyle stated that, consistent with the approach to marijuana cultivators, she recommends that the Commission adopt the definition under the statute, which is that a marijuana cultivator is comprised of residents of the Commonwealth organized as a limited liability company or limited liability partnership under the laws of the Commonwealth, or an appropriate business structure as determined by the commission and that is licensed to cultivate, obtain, manufacture, process, package, and brand marijuana and marijuana products, to deliver marijuana to marijuana establishments, but not to consumers.

Commissioner Doyle explained that within the definition were a number of issues, the first is a Massachusetts residency requirement. She recommended that members of limited liability partnerships or cooperatives, must be Massachusetts residents for the preceding 12 months. She explained that 12 months was a relatively minimal hurdle to meet, in terms of demonstrating that an individual is a Massachusetts resident but not requiring too long a period of time.

The other issue is the scope of the license. There are some legal issues, in terms of statutory limits on how many licenses different entities are allowed to have that led her to recommend a consolidated license structure. A marijuana cooperative may have up to six cultivation locations under one license and three processing and production locations. But they would also be limited to that one license. It makes for an easy structure for a marijuana cooperative to apply for a license. They will be able to have six cultivation locations consisting of different Massachusetts residents who either have ownership or lease on a particular property. And they will be able to have three processing or production locations under that same license. It provides ease of administration both

for the Cannabis Control Commission and for the cooperative itself.

Commissioner Doyle stated that the Commission got a great deal of feedback during the public listening session about having reduced security requirements for craft marijuana cooperatives, but under the statute, there are minimal security requirements that any marijuana establishment, including marijuana cooperatives, need to have. And I recommend that that include video security cameras and fencing, such that unauthorized personnel unable to access the plants themselves. Commissioner Doyle recommended that any activities not covered under the consolidated license requires separate licensure, such as a retail license.

The Chairman asked if there were size limitations to the 6 cultivation locations. Commissioner Doyle said there were not. The subcommittee has recommended against having size limitations on the craft marijuana cooperatives, which she agreed with to give the craft marijuana cooperatives an opportunity to excel and grow with their market. They would be subject to the same licensing fees as you see in the prior slide talking about marijuana cultivation. So, if the total of the six cultivation locations is a certain amount of cultivation space, they would apply for the license that is appropriate for that plant cultivation space.

Chairman Hoffman clarified that a cooperative would add up the square footage of those six different plots to determine the license fee according to the marijuana cultivator tiers. Commissioner Doyle agreed. Commissioner Title asked whether processing would be allowed at the cultivation location. Commissioner Doyle said that it could be, if the cooperative chose to combine locations. Commissioner Title asked if manufacturing is taking place, that would take place at the processing and production locations as well. Commissioner Doyle agreed.

Commissioner Title said that she thought it may be clearer if the Commission made it six cultivation locations and three manufacturing and production locations. Commissioner Doyle stated that she did not have an objection to that. Commissioner Title said that the minimum security requirements for licensees sufficient to deter and prevent theft and unauthorized entrance into areas containing marijuana, which shall include but not be limited to the use of security cameras, provided that the requirements shall not prohibit the cultivation. She also supported requiring video cameras and fencing. She said there may be a difference in the security required between a smaller cooperative and someone who is at the top of the licensing tier.

Commissioner Doyle agreed and said that there was also a waiver process, if someone finds that a particular requirement of the regulations is problematic for them to be able to operate.

Commissioner McBride also agreed and mentioned that there is an alternative safeguard piece that the public safety and community mitigation subcommittee from the CAB recommended. The Chairman recommend deferral of that conversation on that issue until the Commission discussed operational requirements. Mr. Collins identified the motion before the Commission as to adopt the statutory definition of a marijuana craft cultivator, including the residency requirement of 12 months prior. It would allow up to six cultivation locations, as well as three processing and/or manufacturing locations under one license. It would be limited to one license. It would exclude any additional activities, which, as an example, would include retail sales. And we'll put off until a later discussion the minimum security requirements. Commissioner Doyle clarified that it

doesn't exclude them from getting a marijuana retail license, it just prevents them from getting as part of the cooperative license. Mr. Collins agreed and repeated that it would limit it to one craft cultivator license. Commissioner Title asked if the residency requirement would be 12 months before the application. Commissioner Doyle agreed that it would be 12 months before the date of the application. Commissioner Flanagan moved to accept the recommendation, Commissioner McBride seconded. The Commission voted unanimously, 5-0, in favor of the recommendation.

Chairman Hoffman opened the discussion on product manufacturing. Commissioner Doyle recommended that the Commission adopt the statutory language for the definition, limit three licenses per entity, and limit the license to a specific address as with the others. She asked if there were any questions. There were none. Commissioner Flanagan moved to accept the recommendation, Commissioner McBride seconded. The Commission voted unanimously, 5-0, in favor of the recommendation.

Chairman Hoffman opened the discussion on independent testing laboratories. Commissioner Doyle recommended adopting the statutory language and identified that she would be later recommending that the Commission adopt the testing protocols developed by the Department of Public Health. Commissioner Doyle also recommended the licensing of a standards laboratory, which would be an entity that does not, typically, handle marijuana testing and is not licensed as an independent testing facility, but otherwise meet the standards of the independent testing facility. It would be a business that licensees and the commission can go to as a resource to verify the testing and methodology done by the independent testing lab. Commissioner Title asked if there would there be an application process. Commissioner Doyle agreed there would be, including background checking. Commissioner Doyle also recommended that standards laboratories do have to meet those same security criteria and the same background criteria for the employee that work with marijuana because the Commission do want to make sure that the Commission limit any opportunity for diversion and ensure the safety and credibility of any testing results. Mr. Collins described the motion to adopt the definition consistent with the statute for independent testing laboratories. And then, adding a new category to include a standards laboratory, which shall meet the standards for independent testing lab and to be used as a way to verify the methodology and results of an independent testing laboratory, that would also be required to go through the application process. Commissioner Doyle moved to accept the recommendation, Commissioner Flanagan seconded. The Commission voted unanimously, 5-0, in favor of the recommendation.

The Chairman opened the discussion on marijuana retailers. Commissioner Doyle recommended that the Commission adopt a definition that's consistent with the statute that an entity licensed to purchase and deliver marijuana and marijuana products from marijuana establishments and to deliver, sell, or otherwise transfer marijuana and marijuana products to marijuana establishments and to consumers. She also recommended allowing a delivery only retail license that does not require a brick and mortar location. This would give some business opportunities to those who do not want to have the expense associated with opening up a retail store type model, but allows them the opportunity instead to deliver in full compliance and in accordance with strict protocols for delivery. Commission Flanagan asked who the retailers would be delivering it to, and who receives it on the other end. The Chairman explained that protocol for delivery is the next topic. He recommended that be discussed when the transportation protocol is discussed. The Commission also will have to talk about the requirements of delivering within the boundaries of

the municipality in which you're licensed. Commissioner Flanagan said she was concerned the Commission would vote on that now, and have the discussion later. Commissioner Doyle said they could reserve the issue of delivery only. Commissioner Hoffman agreed. Commissioner Flanagan agreed, as long as the Commission reserved the issue.

Mr. Collins stated that the motion would be to adopt the definition consistent with the statute and to articulate or to clarify that each license is specific to a certain address. Commissioner Doyle moved to approve and Commissioner Flanagan seconded. The Commission voted unanimously, 5-0, in favor of the recommendation.

Chairman Hoffman opened the discussion on delivery. He identified three different categories of licenses: retail storefront licensees delivering to homes; retail delivery only licensees; license that is delivery only—it would not require having a retail license but would allow people to actually buy from a retailer and deliver. The Chairman recommended deferring the last category.

The Chairman stated that Oregon allowed home delivery, but Colorado vetoed it for recreational. California seems to be the only place that the Chairman could find that is contemplating the delivery only options. The Chairman stated that it is a challenging category to regulate, but had some benefits, such as a lower cost of entry, in terms of capital requirements.

The recommendation comes with the adoption of the Department of Public Health protocol for home delivery, which has requirements in terms of tracking and has a \$3,000.00 value limit on what can be in a delivery vehicle at any point in time. It has requirements that the product is not visible, for total connectivity between driver and the facility at all times, including tracking of the vehicle. The Chairman recommended that deliveries can only occur in the municipality where the license as a requirement.

The Chairman also recommended no deliveries to dorms or camp grounds or hotels, other public spaces, which the Commission can explicitly define.

Commissioner Doyle asked about the delivery limited to the municipality where the license is issued, because it would seem to almost defeats the purpose of allowing delivery. The Chairman responded with concern about municipal reaction to not allowing licensees for marijuana establishments in the Commission's town, but the Commission allowing a business to make deliveries to people's houses. Commissioner Doyle commented that the statute bars municipalities from preventing transportation. The Chairman responded that the restriction on barring transportation may be different from delivery. Commissioner Doyle agreed that it may be an expansive reading to include delivery in transportation, but there are public policy reasons to support delivery to allowing delivery would prevent, or at least mitigate, the home growing, which has health concerns because home growers aren't required to test or limit what chemicals are put on plants.

Commissioner Title agreed with Commissioner Doyle and advised against the restriction, recognizing that there may be circumstances in which a person does not want to visit an establishment, because they have children with them or because they have restricted mobility. Even if a municipality that an individual lived in has passed some kind of restriction, they still

have rights, as a consumer. The Chairman asked if there should be any delivery restrictions in terms of radius, if not by municipality. Commissioner Doyle recommended against putting any radius on delivery as long as the retailer who is delivering takes the appropriate security precautions. Massachusetts is a small enough state where you can cover the state within a day. She stated that market forces may intervene because it may become ineffective to deliver clear across the state unless you have a particular strain that someone wants in a particular location. Commissioner Title agreed. Commissioner McBride stated that her biggest concern is ensuring that there are sufficient security safeguards in place for security and prevention of diversion, especially to minors, but she was against putting too many restrictions on delivery. The Chairman agreed. Commissioner McBride added that she would want to see very specific security components to feel comfortable.

The Chairman said his recommendation was if the Commission were to allow delivery in one or two categories, that it should adopt the DPH transportation protocol, which had substantive security, anti-diversion and tracking requirements.

Commissioner Title asked about the last two categories. If the Commission allowed for no brick and mortar location, it's a retail license purchasing from a manufacturer or cultivator and then delivering, but there was also a possible delivery license for non-retailers and what the difference was between the two. The Chairman clarified that the first would be a retailer subject to the retail regulations of purchasing from manufacturer. The other option, which he recommended against, is essentially, a delivery service. The business would purchase from retail store and deliver to a home. He explained it was a model found in California for Uber-like delivery, which means that you have an app. Commissioner Title said it was difficult to think through that when you haven't heard what the retail operational requirements are, but pictured requirements regarding packaging, labeling, checking ID and asked if that would be the primary differences. The Chairman said the retailer would have done all of those things, which is required, and the delivery business provides no value added other than matching a retailer who wants to sell and a customer who wants to buy and transporting the product to the customer.

Commissioner Title asked to come back to it after discussion of operational requirements. The Chairman said yes, but he wanted to continue the conversation. Commissioner Flanagan commented that delivery is part of all this, but she was concerned about it getting it to the hands of the people that the marijuana is intended for and she had reservations with the delivery-only retail licenses because there are so many opportunities for this product to be manipulated, even under government watch. She would feel more comfortable if the retailer offered the delivery service from the brick and mortar and not just had people driving around in cars with this delivering to homes and businesses.

Commissioner Doyle asked if the delivery only was akin to food delivery, under which the delivery company provides a service to the restaurant but does not wholesale. The Chairman agreed, but said the Commission should discuss it. Commissioner Doyle asked whether it would be delivered to that specific person, rather than just left with anyone. The Chairman said the regulations would require that you deliver to a person that identifies themselves with proof that they are over 21. Commissioner Title agreed that safeguards are important to make sure that they are not abused. She commented it was not important whether the business is owned by a retail licensee or if it's

an independent delivery licensee, as long as they are in compliance.

Commissioner Doyle asked the basis for the requirement that there be no deliveries to hotels, dorms, camp grounds, etc. The Chairman believed it came from Oregon regulations. Commissioner Title expressed concern with the term “etc.” The Chairman responded that the language would be corrected.

Commissioner McBride asked if the analogy for the delivery only license was FedEx. The Chairman analogized it to Uber. Commissioner McBride asked if there would be assurances if the cannot be delivered appropriately, the product goes back to where it came from. The Chairman agreed that could be addressed through regulatory requirements, but he still is not convinced they should do it. Instead, he would agree with a retail license that is delivery. The Chairman asked the Commission to wait and defer so they could talk about the security protocol.

Mr. Collins stated that the motion is that while the retail licensees offer home delivery in compliance with DPH transportation protocols. The Chairman added that the Commission would defer conversation about a delivery only retail license and independent delivery services, until it had the conversation about protocol. Mr. Collins asked about where the tax would be applied, from the municipality where the transaction occurs or is it where the licensee is located. Commissioner McBride stated that her thought is that it is the address from which the transaction originates. So, if it’s a brick and mortar retail location, and they offer delivery, so, if it’s a transaction there, if the Commission end up going with the delivery service model, it would be where the delivery service originates. The Chairman asked questions to clarify that he understood. Commissioner Doyle added that it also raised the taxation issue. The Chairman asked Mr. Collins to restate the motion with that issue added. Mr. Collins stated that the Commission would allow retail licensees offering home delivery services subject to DPH transportation protocol and tax would be collected at the licensee’s address. Commissioner Title asked to hold off on including the transportation protocol. The Chairman asked that it be clarified to subject to agreement on the security protocol. Commission Title agreed.

Mr. Collins said the motion would allow retail licensees to offer home delivery services, tax to be collected at the point of the licensee’s address, subject to agreement on security protocols. Commissioner Doyle commented that the assessment of tax was outside the Commission’s role. The Chairman agreed and recommended silence on that issue. Mr. Collins eliminated the language on tax and reread the motion. The motion would be to allow retail licensees to offer home delivery services. The Chairman said he did not think it required a vote since it was already permitted under the statute, except for the issues the Commission deferred. Commissioner Doyle agreed. Commissioner Title asked under which topic on the agenda would it be revisited. The Chairman said under operational requirements, the section that says “delivery.” The Chairman asked the other Commissioners if they agreed no vote was needed at this time. They agreed.

The Chairman opened the discussion on distribution, stating that there needed to be independent means of transporting from one marijuana facility to the next. He stated that California is a good model, which differentiated between two kinds of distribution. There are transportation-only licenses, which allow a licensee to move product from one marijuana establishment to another, but not to deliver to retailers. There is a second category, which the California regulations call

distributors, which actually, not just move from establishment to establishment, but also can arrange for testing and ensure that packaging meets regulations. That kind of distributor is allowed to deliver to retail. So, one is a simple transportation function that allows product to move from one establishment to another. The other is a value-added distributor that not just provides the transportation, but also ensures that the product is tested and meets packaging and other regulatory requirements.

Commissioner Doyle asked about the transportation-only license and why they cannot deliver to retailers. The Chairman responded that the difference, at least in the California regulations, is that they won't have to be certified. They will make sure that things are tested, packaged appropriately, and meet all of the regulatory requirements required before something can be sold at retail. They are just, literally, moving product from Point A to Point B and providing no additional value added services.

Commissioner Doyle asked if a marijuana product manufacturer has created and tested a product, but is not interested in the costs associated with distribution, would that prohibit them from hiring someone to transport it for them to a retailer. Commissioner McBride stated packaging and labeling is incumbent upon the marijuana establishment that's producing. The Chairman said that would leave only one category of license, which is just transportation. Marijuana establishments can do their own delivery or they contract with a third party. Whether they contract with a third party or do it themselves, then, there is protocol on security that they have to follow and tracking they have to follow, which the Commission will later discuss.

Commissioner Doyle asked under the one category scenario if there would not be the limitation against transporting retailers. The Chairman agreed, as long as the manufacturer is required to ensure that it's been tested, and it meets labeling requirements and packaging requirements, there is no reason for that restriction. There is a delivery license that allows people to transport from one marijuana establishment to another without limitation subject to DPH transportation protocol or whatever the Commission agrees upon, in terms of security protocol.

Mr. Collins describes the motion will allow for transportation of the licensee to move product from one value chain to the next. Licensees may transport product themselves or contract with a third party. Commissioner Doyle asked if there any limits on who is eligible for the transportation only license, explaining that she was imagining a scenario where there may be a larger marijuana establishment that could also provide transportation services for small marijuana establishments. The Chairman said he didn't think that there should be. If an establishment wants to provide those services to third parties, it needs a license. So, a big company can deliver for itself, but if it wants to provide that service to third parties, you need the license. Mr. Collins added that a transportation licensee must be part of the tracking system as well. The Chairman agreed and said it was part of the DPH protocol. Commissioner Title asked if somebody wanted to have a distributor license and a delivery license, there might be similar investment involved and similar compliance. So, no intent to preclude that, right? The Chairman said no, I think they are separate license categories. They didn't have to get both licenses.

Mr. Collins said the motion here would be to allow for transportation licenses to move product throughout the system, so long as they comply with DPH protocols, which would be discussed

eventually. And that licensees may transport their own product themselves. Subject to the same protocol, the Chairman added.

Commissioner Title asked that the language mirror the last vote, saying subject to the security protocol to be discussed. Mr. Collins asked if she meant for delivery. Commissioner Title said, yes, just so we are not saying DPH protocol in one, and not in the other. Mr. Collins noted there was no vote on the delivery aspect, so he thinks it would reflect that here.

Commissioner Doyle made the motion and Commissioner McBride seconded. The Commission voted unanimously, 5-0, in favor of the recommendation.

The Chairman recessed the meeting until 12.30 p.m.
At 12.30 p.m., the Chairman called the meeting to order again.

The Chairman reminded attendees what had been covered in the morning and asked Commissioner Title to discuss social consumption and microbusiness licenses.

Commissioner Title explained that there was specific authorization under Chapter 94G for the Commission to issue licenses that authorize the consumption of marijuana or marijuana products where sold, licenses that authorize the consumption of marijuana at special events in a limited area, and additional types and classes of licenses. The Commission got a lot of feedback about this at the public listening sessions and in emails as well. She reviewed that feedback with some of the staff, as well as the extensive, thoughtful, recommendations from the Commission's advisory committee, and research into other jurisdictions that allow onsite consumption, primarily for the Commission's purposes, California, especially San Francisco, were very relevant, and Colorado, especially Denver. She proposed three categories on licenses for onsite consumption based on vastly different types of businesses and operational requirements, based on the interest expressed from the public.

She explained that Massachusetts residents are currently prohibited from consuming marijuana in public. For people who may live with non-consuming roommates, or family members who don't want consumption taking place at home, people with children at home that don't want to keep marijuana there, people who live in public housing or who are staying in hotels, there is a public policy need for a legal space in which to consume marijuana rather than trying to find a discreet place, which can encourage arrests and loitering and other issues. At the same time, any onsite consumption models should consider the best ways to encourage patrons to consume marijuana responsibly, not to take marijuana off the premises to avoid diversion, and to get home safely. The categories are broken down based on what was expressed to us during the listening sessions.

Commissioner Title described the first type as the primary use license, is a marijuana establishment whose primary business purpose is the consumption or sale of marijuana. It would be defined as a business that derives more than 50 percent of its revenue from cannabis, specifically, or from membership or other fees that permit someone to consume marijuana on the premises. It could be a designated section of a retail licensee. It could be a cannabis café. It could be some kind of social club where the primary purpose is to consume cannabis.

The second type, which Commissioner Title called a mixed use license, is a business in which cannabis use or sales is secondary or shared purpose to a primary non-cannabis business purpose. Some of the examples that were expressed during the last three months were restaurants that may want to have a cannabis night in the food that they serve, spas that may want to use infused products, movie theaters, yoga studios – anything where people are coming to the business, and they may want to use cannabis along with it. For this type of license, to ensure that the Commission doesn't have applicants who apply for this type of license and then become de facto dispensaries, the Commission may only allow people to buy a package deal. So, the individual is buying a primary service and then, the cannabis comes along with it.

The third type is a temporary special events license where the consumption of marijuana on the premises is intended to be limited in duration. Commissioner Title proposed that the maximum an event license could last is three days because it could cover, potentially, weddings, conferences, or any type of special event involving cannabis. In terms of the limitations on the number of licenses that can be owned, Commissioner Title proposed that, in general, these be treated the same as other marijuana establishments for the primary and mixed use licenses. So, in keeping with the rest of the statute, no licensee would be granted more than three of each type.

For event licenses, given that they are limited in duration and that, for example, there might be cannabis wedding event planners or those types of businesses, Commissioner Title proposed that the Commission set a limit that no licensee may be granted more than 10 event licenses at one time. In terms of considering modifying local control requirements, Commissioner Title had not drafted anything but wanted to allow the Commission to discuss it as an idea. If the licensee has a one day event or a business where there are a few patrons that are coming in, and they are bringing their own cannabis, perhaps the licensee shouldn't have to go through the full local control process that the Commission set out, if it involves something like public hearings or public notice. The Commission may want to defer this, as the Commission did with the previous issues.

Commissioner Title said she would go through each of these bullet points, and then, the Commission can come back to them when the Commission discuss operational requirements. She said as a general rule, the Commission should default to the same application and operational requirements as the other marijuana establishments. So in particular, if one of these licensees will be selling marijuana, then they should be subject to the same requirements as any other retail operation. The Commission can add or modify it as necessary.

The Commission was looking at the regulations for the safety of people's personal data. If the Commission considers the different range of operations that you would have within social consumption licenses, there is a marijuana type bar. Commissioner Title described typical bar activity and explained licensees would have to meet the same operational requirements and security requirements as any other retail business, plus more. On the other hand, Commissioner Title continued, if the licensee has a masseuse with one customer in an hour who is requesting the use of THC infused lotion, or a small yoga studio where there is 10 people in a day that bring their own single serving of cannabis, the Commission may not want to require them to have, for example, a 24/7 live surveillance system. Commissioner Title recommended looking at the personal data safety example where the applicant has to have a plan, that is reasonable relative to the size and the nature of the operation. Commissioner Title analogized it to the difference between

a bank which needs to have a different level of security over all of the people who bank with you, their account information and financial information, versus a landlord with one applicant that has financial data on it. There are different standards that may apply based on the size and the nature of the operations.

Commissioner Title recommended that the Commission consider an exemption that a small, mixed use licensee may apply for where they could apply for an exemption to use an alternate safeguard. For example, if the licensee is a yoga studio or masseuse, instead of the same security and inventory tracking requirements at the dispensary, the applicant could apply for an exemption where it would use a lock box or a point of sale system instead. Products must be purchased from licensed cultivators or manufacturers. One exception would be, if the applicant is a restaurant, it may purchase the cannabis infused ingredient from manufacturers, say the butter or some other ingredient. The licensee could handle or further process in compliance with food safety standards. Otherwise, the packages should not be further processed or modified from their original packaging. All of the products should be served in individual servings. No marijuana may leave the premises. The third bullet point is a training program for employees that would be in equivalent to bar tender training programs in which the employees that are working on site will be trained in onsite consumption. A licensee would also have a reasonable plan to assist with patron transportation. At a minimum, it would come down to some simple but crucial things like can they charge their phone so that they can call a ride share service, is there a designated pick up area for ride share service, is there a way for people without smart phones to get help calling a taxi? Commissioner Title also recommended that, at this time, alcohol may not be served in any place where cannabis is served. If a restaurant or another type of facility with an alcohol license is holding a cannabis event license, they should just shut down their alcohol sales for that time. Commissioner Title stated that the issue of smoking is very difficult. There are a lot of questions about smoking that there are simply not readily available answers for at this time. She proposed a special working group to create recommendations on smoking after examining the research available on second hand cannabis smoke, technology for ventilation, on odor control, which is used in these other jurisdictions, employee exposure, the limitations of the Smoke Free Workplace Act. Those recommendations would be completed by July 1, 2018. In the meantime, the Commission can allow municipalities to permit smoking. And the Commission can allow establishments that are already licensed as smoking bars to permit smoking. Commissioner Title asked Mr. Collins to moderate the discussion.

Commissioner Flanagan asked if the issue of allowing municipalities to permit smoking means inside facilities. Commissioner Title affirmed that it was correct. Commissioner Flanagan asked if the licensees would have to adhere to the tobacco and smoking laws. Commissioner Title agreed and said in terms of the recommendations, she agreed that regulations should be adopted by looking at tobacco laws and adopting in the same way. Commissioner Doyle asked if smoking would not be permitted by the time establishments may open, would the plan be to allow consumption or ingestion by nonsmoking methods? Commissioner Title agreed. The Chairman asked if regarding mixed use and special event, the second and third categories, if Commissioner Title was suggesting that the Commission would not go through municipality approval process? If there is a ban or a moratorium in place, he wanted to make sure he's understanding the recommendation.

Commissioner Title clarified that if there were a ban or a moratorium in place, those licenses would be banned, or temporarily banned. In terms of modifying local control, Commissioner Title suggested that, when the Commission go through the process of determining what each licensee has to go through at the local level, or clarifying those requirements, that the Commission consider having a separate process for those smaller licensees.

Commissioner Doyle stated the statute requires marijuana establishments to have these local host community agreements, so there is not a lot of wiggle room on that. She wanted to know how the Commission could modify it to make it so that it's less burdensome without unduly interfering with municipal processes. Commissioner Title explained an example where the Commission have a group of potential mixed use licensees, they can cooperate on their process of the community host agreement and work with the municipality. The municipality could offer the same terms of the agreement to a group of different prospective mixed use licensees. There could be one hearing for that group of prospective licensees.

Commissioner Doyle asked if it would be like a procurement process by inviting everybody in at once to have a presentation. Commissioner Title agreed and said a small business that is going to just have a few patrons, would not have to go through that same unduly difficult, sometimes, process of municipal approval. Commissioner McBride asked if it would be like a pre-approval process. She explained that the state has a list of entities that have been approved as meeting the general requirements. Commissioner McBride said she could something similar working with specific carve outs that need to be addressed on a one-off basis, depending on particular issues, location, or something like that. Commissioner Title agreed stated that might be in line with a lot of the questions and requests for clarifications that the Commission has gotten from municipalities as well.

Commissioner Doyle asked if the Commission would be discussing the security issues and operational requirements later. The Chairman said it should. Commissioner Title said at this point, similar to the previous votes, the Commission would only be voting on the three types of licenses. The Chairman agreed. Commissioner Flanagan asked if the event licenses would be approved by the municipalities or the Commission. Commissioner Title recommended both.

Commissioner Flanagan explained she was thinking of the alcohol one-day licenses and things of that nature and that process. The Chairman asked what that process was. Commissioner Flanagan explained one day licenses for special events for places that don't have liquor licenses. The Chairman asked if there was no state involvement in that process. Commissioner Flanagan said she believed the ABCC was notified. Mr. Collins agreed that the license was approved by the local licensing commission with notification given to the ABCC, but there's not a layer of approval. Commissioner Flanagan agreed; the ABCC does not determine it. She said there was also a limit on how many certain licenses businesses could get each year. Mr. Collins said there is an individual limit like you're effectively [inaudible] able to get up to X amount, but there is not a town-wide limit necessarily. Commissioner Flanagan recommended modeling it after that. Commissioner Title agreed.

Commissioner Doyle asked if the Commission was planning on putting restrictions about an overall consumption limit for any given point in time, or cannabis awareness and response

education. She asked if there would there be an overall limit for any particular occasion in a cannabis café or is it up to the individual budtender to look at the individual and determine the level of intoxication like with bartenders.

Commissioner Title said she was open to thoughts from the public health and public safety perspective. The cannabis advisory board recommended a daily limit exposure based on the lab testing levels, but it would provide more context and education for the consumer to have information coming from the employee who has been trained by the TIPS equivalent. Whereas if there is just see a daily limit exposure without context, there may be some unintended consequences to that.

Commissioner Doyle asked if the licensee would provide the educational materials to the consumer and give them information about the things that they are consuming, whatever they may be and delayed effect. Commissioner Title agreed and said one of the primary benefits of having an onsite consumption license is that the consumer is not on their own. They can have responsible use of cannabis demonstrated in front of them and have the certified employees there as you go through the experience.

Commissioner McBride said for the one-day license, she is concerned on the turning over the one-day licenses. She had a strong preference for there being municipal, as well as Commission approval. She would also want the Commission to talk about this when the Commission gets further along into the operational requirements regarding the kind of the interaction and the notice that local law enforcement would get, in the event of there being a one-day license. She would like to build the function in there, thinking about the potential for smaller communities that have really limited resources, in terms of law enforcement. Commissioner Title agreed. The Chairman asked the spectrum of different kinds of entities for the primary use license, in addition to cafes. Commissioner Title said cannabis café, pot bar, cannabis lounge refer to the same type of entity.

The Chairman asked what on premises consumption for a retail licensee might look like. Commissioner Title stated that the retail establishment would have a separate location designated for its consumers who wanted to consume on site. It might be a separate room, a separate access area. A marijuana establishment could co-locate or do them in different places.

The Chairman asked if a consumer would have to buy from the retail establishment and then go into this consumption area or buy within the retail consumption area. Commissioner Title said there would be different purchasing standards because, if a consumer is in an onsite consumption area, they are purchasing one serving size. In the retail area a consumer could purchase more. The Chairman asked about social clubs. Commissioner Title explained they would be a private or invite only type of club where a consumer may pay for a membership. The Chairman asked if the combination of the cannabis sold, and the membership would have to be more than 51 percent in the first category. Commissioner Title agreed if someone is operating a business where they are selling cannabis as the primary business.

Mr. Collins asked, related to that 50 percent, if the applicants confirm or verify that percentage of sales to the Commission upon renewal. Commissioner Title said yes, she thinks that's right. She thought of it more on the mixed use side of things, but it would be a check on both. Commissioner

McBride asked if with the mixed use category, would individuals bring in their own marijuana to the entity, or would the licensee be selling it, or a mix. Commissioner Title said it would be up to the individual licensee provided that, if they are making any sales then, of course, they need to be in compliance with the retail requirements. They could set their own policy as to whether it is one or the other or mixed. Commissioner Doyle stated that when a consumer is bringing their own, and considering the possibility of some sort of indoor environment, she was concerned that the Commission would not know what has been used on that marijuana and what is being smoked into the air, in terms of carcinogens. Commissioner Doyle she did not know if there was a scientific argument against her concern, but she did not want to create an indoor air situation where customers of a mixed use license are accidentally poisoning each other. Commissioner Title said that was precisely the reason why she suggested that the Commission hold off on smoking issues until the Commission has an opportunity to study those questions.

The Chairman stated that the Commission has no control over the genesis of the product people are bringing in, including no knowledge that it was grown by a legal cultivator, or that it was not grown out of state. He wondered if the Commission would have any responsibility or liability, since the Commission are issuing the license for these facilities, does the Commission have any responsibility for controlling what is consumed and not just whether it's smoked. Commissioner Doyle said that might involve a discussion of the Tort Claims Act, but generally, a number of safety issues involved with a bring-your-own model. She stated she would be more comfortable with the idea of a mixed use license if the product available there was from a licensed source. Commissioner Title said she did not see anything in Chapter 94G that would be a consideration, but it's worth examining that question. If it does mean that the Commission need to have different requirements for the BYOC licensees, it was worth considering.

The Chairman asked what would be the consequences of not allowing BYOC and just having product that's consumed in one of these mixed use licenses only be sold by the licensee. Commissioner Title responded that she thought it would encourage unregulated, underground operations that allowed BYOC.

Commissioner Doyle asked whether marijuana social consumption operators would be considered marijuana retailers for the purpose of tax collection. Commissioner Title responded that they would be treated as a retailer for tax purposes. Mr. Collins asked if a primary use licensee under this program would purchase product direct from a manufacturer. Commissioner Title said it would. Mr. Collins asked therefore, they are the retailer. Commissioner Title agreed. **[inaudible] [02:31:46]?**

Commissioner McBride responded from the cultivator. She said she thought limiting mixed use to being able to purchase it there and not bring their own, leads to the concern about when the Commission is licensing, what does the Commission's licensing mean if the control over what is used is diffused? Commissioner McBride acknowledged the issue of driving consumers to other avenues with an illicit market, but it should consider whether to require marijuana from an approved source. Commissioner Title said it would be reasonable to go back to stakeholders and ask that question, look at what other jurisdictions are doing and possibly restrict that in some way. Chairman Hoffman asked what other jurisdictions, particularly California and Denver, did. Commissioner Title said she would come back to that. The Chairman asked if California and

Denver, had these three categories. Commissioner Title said they did not. They do have very tailored kind of event licenses. The Chairman asked if they had mixed use, as well as marijuana primary businesses, as well as special event. Commissioner Title said they have special event and primary use. They don't have mixed use yet.

Mr. Collins asked if there were any other questions. He said at this point, the question was which license types should be available. The Commission will defer the question of operational requirements for the broader operational requirements conversation. There are questions with respect to each license. For instance, Commissioner McBride raised the issue of one day or event license, having the local law enforcement notice element. There is the issue of the maximum allowed would be 10 licenses at one time. He asked if an event licensee can do one license at a time or 10 licenses throughout the course of a timeframe. Commissioner Title said it would be up to 10 at one time. A licensee could pull 10 for upcoming events, but could not get any more until one of those events passes.

Commissioner Flanagan said she would like to model event licenses after one-day alcohol licenses. She does not know if cities and towns do 10 licenses at a time for alcohol, but for the ones she is familiar with, people are looking for one day for special event liquor licenses and it has been one at a time, not grouped. She is concerned that if the Commission is going to do up to 10, how does that reconcile with municipal charters or municipal regulations when it comes to alcohol? Commissioner Flanagan stated that throughout the listening sessions, she heard people asking the Commission to look at the alcohol laws. A municipality may not want to do up to 10 licenses, especially 10 licenses at a time. The Commission needs to give them the control that they want in their towns. Commissioner Title said the limit of 10 would come at the state level and the municipality could have its own limits. Commissioner Flanagan asked what happens if the numbers are not the same. Commissioner Title said she did not anticipate the Commission could overrule a municipality. Commissioner Flanagan clarified that the 10 would be for use in any municipality. Commissioner Title agreed. The Commissioners discussed whether the 10 licenses should be limited to a time period, such as a year, or whether it should be rolling, such that when one license was used the applicant would be eligible for another. Commissioner Title recommended the rolling approach. Commissioner McBride raised concern with keeping track of the using of the licenses and placing an administrative burden on municipalities to keep the Commission informed regarding licenses that are issued on the municipal level. The Chairman discussed how the process could work regarding notices. Commissioner McBride reaffirmed that she was in favor of a dual licensing approach. Commissioner Doyle asked about tracking inventory. Commissioner Title said the Commission hasn't had that conversation yet. The Chairman responded that it may be challenging for the second and third categories of licenses, but the first category should be straightforward. Mr. Collins agreed regarding the first category. Commissioner Title recommended that mixed use applicants could request waivers where necessary.

The Chairman suggested voting on the first category and then further discussing the second and third categories. Commissioner Title asked what concerns there were for the second and third categories, other than BYOC. Commissioner Flanagan raised concern regarding event licenses, taxation and municipal involvement. She agreed that BYOC raised public health concerns. Commissioner Title agreed that event licenses may require further work and discussion.

The Commissioners discussed whether they were ready to vote on mixed use licenses without BYOC, returning to BYOC before a final vote. The Commissioners discuss the fact that the regulations will need to be reopened and adjusted as time goes on.

Mr. Collins said questions coming before the Commission is whether to allow primary use, social consumption at a location with a primary use license where more than 50 percent of the revenue will be derived from cannabis sales as well as a mixed use license that they sell only 50 percent or less – less than 50 percent of their sales be derived from cannabis. And at no time will a patron be allowed to bring their own cannabis for use on site. The Commission is deferring questions on adding a BYOC element, as well as one-day event licenses. Mr. Collins clarified the licensees would be retailers for tax purposes. The Chairman asked the vote to be separated. Mr. Collins said the first one would be in order to allow primary use licenses for social consumption if more than 50 percent of revenue must be derived from cannabis sales. Commissioner Title moved, Commissioner Doyle seconded. The Commissioners voted unanimously in favor of the motion, 5-0.

Mr. Collins said the second vote would be to authorize mixed use licenses where sales must comprise less than 50 percent of total revenue for the business. And a patron may not bring their own cannabis for use or consumption on site. Commissioner Title moved, Commissioner Flanagan seconded. The Commissioners voted unanimously in favor of the motion, 5-0.

The Chairman opened the discussion on microbusinesses. Commissioner Title explained that she created the microbusiness license to respond to issues of equity, but it would be available to any small business. It is a vertically integrated small business in which the company could cultivate and process the cannabis or manufacturer it into infused products or both. It would have the opportunity to deliver them to the customer as well. It would be limited to 10,000 square feet because that is California's micro business limit but the Commission can adjust accordingly. The licensee would have to meet all of the retail requirements, but it would be deliver retailer, as discussed earlier, rather than through a brick and mortar store. Being vertically integrated streamlines the applications process for the applicant and Commission. Due to that efficiency, the Commission can put a discount on the application fee of 50%. Commissioner Title recommended that anyone who does not have an ownership stake in any other marijuana establishment would be eligible for this streamlined microbusiness license and the accompanying discount.

The Chairman asked about models from other states. Commissioner Title said California and possibly Oregon had a microbusiness license, but she did not model her recommendation on another state. California's microbusiness was also vertically integrated but it was tiered by annual revenue. Commissioner McBride asked how ownership stake would be defined. Commissioner Title said she was open to discussion and the Commission could select an ownership percentage or stick to controlling interest. Commissioner Doyle asked about residency requirements. Commissioner Flanagan recommended incorporating a residency requirement. Commissioner Title asked if it would be the same 12-month requirement. The Chairman said he did not agree with incorporating a residency requirement and Massachusetts should welcome new small businesses to come into the state. Commissioner Flanagan encouraged the Commission to take care of Massachusetts residents before taking care of people who want to come into the state and

she did not view a residency requirement as negative. Commissioner McBride agreed with Commissioner Flanagan. Commissioner Doyle also agreed and raised the future discussion of the local employer leader category in the leadership program. Commissioner Title asked about constitutionality concerns. Commissioner Doyle responded that she had not looked at it recently, but where it is limited, it is not shutting people out of the industry. The Chairman stated that it limited opportunities and barriers to entry are generally bad and create inefficiencies in markets. He otherwise liked the idea of microbusinesses. Mr. Collins asked if the 10,000 square foot tier was appropriate. The Chairman agreed that it seemed high. The Commissioners discussed other options for limits. The Chairman suggested up to 5,000 square feet, but asked about growth. Commissioner Title said the advantage of it is really to get your start, and once you grew beyond the 5,000 square feet, you would no longer be a microbusiness. The Commissioners discussed the administrative options for a business that grows beyond the 5,000 square foot limit for a microbusiness. Commissioner McBride recommended that once the business exceeded the requirements for a microbusiness, it get the appropriate licensing for the business it has become. Commissioner Doyle agreed. The Chairman raised a concern about requiring a new application process. Commissioner Title suggested an abbreviated conversion process. The Chairman agreed.

Mr. Collins stated that the question, generally, is the Commission is going to allow the authorizing of microbusiness, including a cultivator, manufacturer, processor, as well as a delivery retailer. They would be subject to security protocols, tracking requirements and be considered a retailer for tax purposes. They would be limited to 5,000 square feet. Their application fees would be the sum of the fees they would need, discounted by 50%. The Chairman asked that the fee discussion be deferred to the discussion of all the fees. Commissioner Title agreed. Mr. Collins continued that eligibility would be for anyone who did not have an ownership stake in any other marijuana establishment. There was also a discussion of residency requirements. Mr. Collins asked to divide the vote to take residency requirement separately. The Chairman agreed. Mr. Collins said the first vote, therefore, is whether or not to allow a microbusiness license, which would be permitted to cultivate, manufacture, and deliver limited to 5,000 square feet. Commissioner Title moved, Commissioner Doyle seconded. The Commissioners voted unanimously, 5-0, to approve. The Chairman said the next issue would be the eligibility requirement will be no ownership stake to be defined in other marijuana establishments and 12 months' residency requirement in Massachusetts prior to the license application being submitted. Commissioner Doyle moved to approve, Commissioner Title seconded. The Commissioners moved in favor (4-1), with Chairman Hoffman opposing.

The Chairman called for a ten-minute recess at 2 p.m.

The Chairman called the meeting back to order. The Chairman opened the discussion on the application process. Commissioner McBride stated that the Commission would discuss priority applicants first, then the general process of licensing.

Commissioner McBride described different options for licensing: a single application submitted at once; a phased application that requires completion of one phase to continue to the next; or a packet system in which three parts or packets are reviewed on a rolling basis. Commissioner McBride recommended the packet system, because it provides flexibility for the Commission for reviewing and for the applicants to choose to complete different parts of the application.

The components of the packet would really be the three choices. There is the application of intent. There is the background check piece, and the management and operations profile. The application of intent is really I see it as largely administrative. There is some show of a municipal agreement or a municipal process piece in there. But it's largely administrative in nature. Where are you planning on siting? What are the names of the individuals who are going to be part of the license application, that type of information. The background check is the part that is required by statute. There is a statutory requirement for fingerprinting of licensees. The management and operations profile is where there is going to be detail provided about specific ways the applicant intends to meet the Commission's requirements under the regulations. Commissioner Flanagan moved to describe the packet system. Commissioner Doyle seconded. The Commissioners voted unanimously, 5-0, in favor of the packet system.

Commissioner McBride discussed the components of the application of intent. She raised whether the Commission should include a set capitalization requirement as part of the application of intent. She said the Commission can adopt an inquiry into where the capital is coming from, but not set the capital requirement. The Commission can also set a specific requirement. The Commission can set a specific requirement for all licenses and all licensees regardless of the type of license or what tier they fall into or the Commission could set a low capitalization requirement based on the license tiers that the Commission has discussed. The Commission could also adopt the RMD capitalization requirement that is currently in circulation.

Commissioner McBride explained that she was unable to find to find another jurisdiction where there was an explicit capitalization requirement. There are many jurisdictions where there is an inquiry made of the financial backing with inquiry standards. Commissioner McBride recommended that the Commission either have no capitalization requirement or a low capitalization requirement. I think it's possible to lower barriers without sacrificing **strong regulatory [inaudible]** structure.

Chairman agreed that two realistic options are there are no capital requirements or low capitalization requirement, based upon license tiers. The \$500,000.00 required for RMDs is because they are vertically integrated. He asked if the inquiry without a set capitalization requirement allows the Commission to use the findings from that inquiry as part of the Commission's evaluation process about whether to grant the license or not. Commissioner McBride agreed that it would, as a vetting of the financial backing.

Commissioner Doyle asked for clarification on the inquiry process, so it was transparent for applicants. Commissioner McBride explained that a financial backer who is going to be contributing X percentage, then, there is going to be a more stringent review process, and there is going to be an inquiry into who they are, including a forensic review of financial information. Commissioner McBride cautioned that the Commission would have to think about staffing for these roles. The Chairman said it was forensic accounting. The Chairman asked if there should be low capitalization requirements, based upon tiers, for most tiers, with some tiers, having no capital requirements, for some of the ones that really just don't require much capital. He was concerned about hidden traps in the inquiry process, as well as staffing. Commissioner McBride stated that she was comfortable with that. Commissioner Title said she would support a low capitalization

requirement, that way when they do the vetting, they are looking to verify the applicant has the ability to run the business. If the Commission has no requirement, and then, the Commission is vetting that, Commissioner Title is not sure what the Commission is vetting for. Commissioner McBride said she thinks that the vote would be on a hybrid, low capitalization requirements. The Chairman suggested that he could come up with a framework of low capital requirements, but he may need more than 24 hours to do it. Commissioner Title recommended adding it to the fees conversation. The Chairman agreed if the Commission pushed the fees conversation back until at least Wednesday morning.

Mr. Collins said the question before the Commission is whether to have a hybrid model for capitalization requirements, with some licensees having low requirements and some having none. The Commission would defer on exact amounts. Mr. Collins asked if there was no capital requirement, would there still be an inquiry. Commissioner McBride said there should be some justification of where the capital comes from. The Chairman asked why. Commissioner McBride responded to ensure that the funding came from legal sources. Commissioner Doyle agreed that it would also serve the objectives of the Cole memorandum. The Chairman agreed that it made sense to perform an inquiry into the source of capital.

Mr. Collins said the decision was to maintain a lower capitalization requirement across all licenses and, in some cases, no capital requirement at all, with an inquiry maintained. Commissioner McBride moved to approve, Commissioner Doyle seconded. The Commission moved unanimously in favor, 5-0.

Commissioner McBride continued the discussion of the application of intent regarding municipal signoffs. There is a letter of non-opposition that it is a piece of medical marijuana regulations. Commissioner McBride recommended instead an applicants' led community outreach hearing, which may bring to light issues that maybe would be a more effective way of engaging the municipality. Six months prior to or within six months of the application would convene a public forum that would be open to the public, it would be open to anyone from the municipality where they are contemplating siting and would really be an effort to hear from the community about what their concerns are and enables there to be a delineation of what some of the issues are that need to be reflected in the host community agreement.

There would also be a certification that the host community agreement is there and that there has been an agreement reached between the parties. Commissioner Flanagan said anytime that you can involve the municipality itself and the community itself means much more than a letter of non-opposition. Commissioner Title asked what the relationship is between this hearing and the community host agreement. Commissioner McBride responded that the intent of it is going to provide a more effective way of getting the sense of the community and hearing from the community about what those concerns are. What needs to be mitigated? Is it a matter of the community thinks the community is going to have traffic, so, the community needs to talk about what a traffic plan is going to look like? Is the concern that the community is going to maybe need to hire additional public safety personnel because the community is a three police officer town, and maybe the community will need to hire somebody else. There are a host of issues that can potentially come to light. It requires both the applicant and the municipality to engage and may help cut through noise. Commissioner Doyle spoke in support of the hearing on the grounds that

in communities where there isn't a special permit process that requires notice to an abutter, and no other notice that there is going to be the potential for a marijuana facility coming into their neighborhood, there have been problems. A community outreach hearing that would generate more interest and more participation, this may be a way to address some fears that are less founded, and that the facility can address proactively. The Chairman asked about notice requirements for the hearing. Commissioner McBride responded that notice is the applicant's obligation. Commissioner Title recommended that the regulations require there be a showing that it was convened and there was notice. The Chairman agreed that this needs to be the responsibility of the applicant and the Commission cannot impose it on the cities and towns. Commissioner Title recommended that the Commission help walk applicants through the process of what a community outreach hearing is. Commissioner McBride agreed that regulatory guidance would be appropriate for that. Commissioner Flanagan recommended a manual or a bullet point type sheet that applicants can take with them.

Mr. Collins said the question before the commission would be whether or not you should require applicant led community outreach hearing within six months prior to an application as a way of engaging the municipality and the Commission will issue potential sub regulatory guidance based on that. Commissioner Doyle moved to approve, Commissioner Flanagan seconded. The Commission voted unanimously, 5-0, in favor.

Commissioner McBride addressed host community agreements and whether the Commission should review them. The Commission can say that the Commission will review the host community agreements or the Commission could require evidence of an executed host community agreement but not review it. The Commission could also remain silent on host community agreements and not take any stance on it. Commissioner McBride recommended that the Commission not take on the role of reviewing host community agreements, because it was not the Commission's role. Host community agreements really should be between two parties. And it's the applicant or licensee and the municipality. Commissioner McBride suggested that the Commission include, in the application, a certification that there has been a host community agreement reached. Commissioner Doyle added that that the certification should be counter signed both by the applicant and the municipality, whoever the contracting authority is for that municipality. She explained the reason she used the term contracting authority was that 351 municipalities have varying structures. The Commission needs to leave it to the contracting authority to identify themselves and certify that an applicant in their town has reached a host community agreement with them.

The Chairman asked who determines whether the host community is being unreasonable in terms of the request they are placing on the applicant and that they are covering costs that are not intended to be covered by the statute. He could see the situation with municipality has a lot of leverage over the applicant. The applicant cannot get a license, unless the host community agreement is agreed to. By the Commission's reviewing the host community agreements, the Commission would ensure that they, indeed, were just covering the costs that were incurred, as opposed to generating revenue.

Commissioner McBride acknowledged the concern as fair. It was recommended that the Commission maybe provide a little bit of guidance about what some of the costs may be that could

be encompassed in a host community agreement. Every community is going to be different. Engagement with the community should give the applicant a list. There will be negotiations about the real costs and what they should be, which happens every day with regard to contracting. The Commission gets into very tricky territory if the Commission is going to be taking on full-fledged review of contracts.

The Chairman expressed concern that it is not a contracting process between equals or that the leverage is equal between the parties. He asked if there is a middle ground that says the Commission just look at the contract to make sure that it is not a clear violation of not just covering the incremental costs incurred. Commissioner Doyle expressed concern that the Commission would not be able to effectuate a consistent review due to the difference between municipalities and host community agreements dealing with the specifics of local conditions. Commissioner Title agreed that the Commission need not review every host community agreement, but queried what the point of having specific requirements in the statute if the Commission was not going to review them. Commissioner Doyle said it would be to constrain the parameters of the host community agreement and require to keep public record of what the costs are and make that available, it's going to be transparent on the town level whether or not the agreement is appropriate. Commissioner Doyle asked how the Commission would determine which agreement to review. Commissioner Title explained that there could, potentially, be a complaint process or an appeals process where the contract has costs that are not reasonably related to what the actual costs are. Commissioner McBride responded it puts the Commission in the position of being intermediary between the applicant and the municipality. Commissioner Doyle asked to keep the discussion confined to the application process, rather than operational issues of contesting the host community agreement down the road. Chairman Hoffman expressed concern that leaving a dispute over the host community agreement to the courts may be a challenge to small participants, in this industry and the Commission needs to provide some redress. Commissioner Flanagan expressed concern with the Commission's role reviewing municipal agreements. The Chairman reiterated his concerns about the municipality's leverage and ability to preclude marijuana in municipalities. Commissioner Title referred to the referendum requirements for precluding marijuana in municipalities. Commissioner McBride commented that it goes to what the Commission views the Commission's role is, and the role is the Commission is the regulator of this industry.

Mr. Collins said the question would be whether to require as part of an application a certification signed by both the applicant as well as the contracting authority within the municipality that the host community agreement has, in fact, been reached.

The Chairman recommended that the Commission vote on two separate questions. One is whether that has to be a certification that the host community agreement is in place. And the second is whether the Commission review the host community agreement.

Mr. Collins said the motion would be the certification that the host community agreement has, in fact, been reached. The certification would be signed by the applicant as well as the contracting authority within the municipality. Commissioner Flanagan moved to approve, Commissioner McBride seconded. The Commission voted unanimously, 5-0, in favor.

Mr. Collins said the second question would be whether or not the applicant should – or the

commission would accept and review the host community agreement that has been signed.

The Chairman clarified that he does not believe the Commission needs to review it, but there needs to be some redress. Commissioner McBride asked how it could provide redress without reviewing it. The Chairman responded that the Commission would only review. Commissioner Doyle if the Commission was talking about during the application process or ever. The Chairman responded he didn't know. Commissioner Title clarified that she was thinking about it during the application process, but it could be brought up another time. Commissioner Flanagan asked if host community agreements need to be done before the applicant applies. Commissioner Doyle and McBride confirmed they did. Commissioner Flanagan stated that the Commission would then have to review them before the applications. Commissioner McBride said the Commission would be reviewing it before the Commission make a decision on the application, which creates, potentially, a bottleneck and a delay. The Chairman clarified that it would be a request for review before the Commission approve the application. Commissioner Doyle questioned if that was unlikely, since it was so early on in the process. The Chairman responded that the applicant could identify in the application that it didn't enter a host community agreement because the demands were unreasonable or that it signed the host community agreement despite unreasonable demands and ask for review where the costs imposed are egregious.

Commissioner McBride raised concern regarding the nature of the review. The Chairman responded that costs could be compared between similar municipalities. Commissioner McBride agreed a limited review was possible, if the Commission was not reviewing every single item. Commissioner Title asked what the obligation of the municipality would be if the Commission found the costs unreasonable. Commissioner McBride responded that the host community agreement would not be valid. The Chairman stated that would not help the applicant. Commissioner Title said it might set a guideline for what's unreasonable, at that point. The Chairman asked what the process would be if a municipality was believed to be using zoning to preclude marijuana establishments. Commissioner Doyle responded that the applicant would have to go to court. Commissioner McBride agreed. Commissioner Doyle added that she did not think the Commission could order a municipality to do something. The Chairman agreed, but thought the Commission could collaborate with municipalities. Commissioner McBride recommended providing a guideline with specificity for host community agreements to provide clarification for both parties. Commissioner Flanagan stated that she agreed with Commissioner McBride. Applicants need to work with communities. The Commission starts to oversteps its regulatory role if it gets in the middle of host community agreement negotiations. The Commission is not growing this industry, it is regulating this industry.

The Chairman identified a philosophical issue about the point about the Commission is just regulators. If the Commission says the Commission wants to promote the participation of small businesses as part of this industry that the Commission is trying to stand up and create, it is not an abuse of the Commission's regulatory powers to make it easier for small players to participate. It is not any different philosophically, in his opinion, than what the Commission just talked about capital requirements, which is the Commission are making a decision about capital requirements and, potentially some categories of small business would not have capital requirements.

Mr. Collins said the question would be whether or not, upon request, the Commission should

review the host community agreement and provide redress in circumstances that the Commission deems unreasonable. Commissioner Doyle moved to approve, Chairman Hoffman seconded. The motion failed 2-3, with Chairman Hoffman and Commissioner Title voting to approve and Commissioners Doyle, Flanagan and McBride voting against.

Commissioner McBride opened the discussion of the management and operations profile packet. It invites applicants to think really critically about what their entire management and operations are going to look like and provide some level of detail to the commission as part of this piece of the application, including security requirements and diversion prevention. It would require the applicant to show critical thought of their plans. Commissioner McBride did not anticipate the operational requirements would vary much from the DPH regulations and recommended adopting them. Commissioner Doyle spoke in support of it as especially critical for the small businesses that cannot afford to hire professional consultants to help them get off the ground and understand the regulations. It provides them an opportunity for them to fill out the sections of the application process and the Commission can get a sense of whether or not they understand the regulations and gives the Commission an opportunity, because this is going to be a compliance-based application model, to say to the applicant that they have misunderstood this part and give them a chance to correct.

Mr. Collins said the question would be whether or not to adopt the recommendation to include a management operations profile that includes a timeline for achieving operation of the establishment and evidence that they'll be ready to operate. That will include a plan for obtaining liability insurance, the detailed summary of operating policy and procedures, including the delineated list, included in the slide. Commissioner Flanagan moved to approve, seconded by Commissioner McBride. The Commission voted unanimously to approve.

Commissioner McBride discussed specific application requirements for certain types of marijuana establishments. She recommended that retailers be prepared to tell the commission where they intend to acquire marijuana and marijuana products. For cultivators, they should be prepared to provide a detailed plan that includes policies and procedures for cultivation. Manufacturers would include their plan on producing and methods of production. Regarding labeling and packaging, samples of any unique identifying marks that they plan to use.

Commissioner Title asked how specific applicants needed to be with their plans. Commissioner McBride responded that the Commission needs sufficient information that the applicant has thought it through and to make sure that they are legal products and that the Commission knows what that inventory is. Commissioner Flanagan said she thinks that that information is going to be helpful.

Mr. Collins said the question before the commission is whether or not to require additional information based on the category of license, including if they are a retailer, where they intend to acquire their marijuana or marijuana products. If they are a cultivator, what their policy and procedures for cultivation will be. Finally, if they are a manufacturer, a description of the times and forms of products that they intend to produce, the methods of production, and samples of any unique identifying marks that will appear on the products, for instance, a brand. Commissioner Title moved to approve, Commissioner McBride seconded. The Commission voted unanimously

(5-0) in favor.

Commissioner McBride started discussion on two priority types of licenses. The first is licensing for existing RMDs, which the Commission are mandated by law to provide expedited review by licensing existing RMDs that have achieved accreditation. The applicants would be deemed to be accredited, if according to the records of certifying agency at DPH that the applicant is an RMD that has received a final certificate of registration and is selling on the date of application, an RMD that has received a final certificate but not yet selling on the date of application, or an RMD that has received provisional certificate of registration. That would be the category of priority licenses for the RMDs that the Commission would provide this kind of expedited process to. The Chairman asked for a motion to approve as it appears on the slide. Commissioner Doyle approved, Commissioner Flanagan seconded. The Commissioners voted unanimously (5-0) to approve.

Commissioner McBride stated that the statute required that licensees should not need to submit information that has already been submitted to DPH as part of their licensing process. The question before the Commission is what information will RMD seeing licensure as adult use marijuana establishments be required to submit. Much of the information that the Commission would need to obtain is already going to be existing in DPH, but there will be additional information that the Commission will want to obtain, including the community engagement process. If there is going to be a different location under adult use license, the applicants need to be provide the Commission with that information. The background check packet, includes a fingerprinting requirement for licensees under Chapter 94G Section 21. Any additional background check information for close associates who were not part of the original RMD license is also going to have to be obtained. Certifications for host community agreements would be required. Commissioner Doyle asked if the Commission would be rechecking people who are currently within, just for example, a year of having their full background check from the DPH. Commissioner McBride agreed they would not be. It would be on renewal.

The Chairman asked if the fee should be lower than for a new entrant tier, given that there are fewer requirements on the Commission's side to process the application. Commissioner McBride said she would think about it.

Mr. Collins stated that the question before the Commission would be whether to require additional information not included in the existing RMD application for DPH. And those include **[inaudible]** **[04:37:49]** during the process of application, packaging, so, the Commission can packet the application process, including additional requirements for the application of intent, additional requirements for background check, additional requirements for operating procedures as delineated in this slide. Commissioner Flanagan moved to approve, seconded by Commissioner McBride. The Commissioners voted unanimously (5-0) in favor.

Commissioner McBride discussed equity issues with management and operations profile with RMDs. She recommended that as part of the management operations profile from existing RMDs, there would be a detailed plan to establish mentoring relationships with equity applicants and licensees, as well as a detailed plan to maximize employment opportunities within existing establishments. The Commission could discuss whether it should be required or informal, or an aspect of the leadership program.

The Chairman recommended that the Commission is going to get to social equity programs and privatization and support that the Commission is going to give to people in these communities and this issue should be part of that conversation tomorrow. Commissioner Title agreed and asked if RMDs would be required, if any of their policies have changed, like training for employees, the security and so forth, if the Commission would ask for anything to show how their policies will change. Commissioner McBride agreed that if policies are being updated, the applicants must provide the Commission with detailed information about how they plan to meet requirements, much like in the new applicants.

The Chairman asked to defer voting on this until tomorrow. Commissioner Title distributed her report for the social equity discussion, which she described as the preliminary report on the areas of disproportionate impact. She recommended that the Commission have the conversation tomorrow without specifying that list but that the Commission have this as context to see what they might look like.

The Chairman announced that the slides from the day would be posted, as well as Mr. Collins report on the votes taken. The Chairman stated that there were no additional topics that he was not aware of at the time the agenda was posted. The next meeting is December 12, 2017 at 10:30 a.m. in the same location. Meetings on Wednesday, December 13, and Thursday, December 14, would be at the Hurley Building at the Minihan Room. On Wednesday, the Commission will start at 11:00 a.m. The Commission adjourned as of 3:35 p.m.