

# Commonwealth of Massachusetts



STEVEN J. HOFFMAN  
CHAIRMAN

## CANNABIS CONTROL COMMISSION

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### CANNABIS CONTROL COMMISSION PUBLIC MEETING MINUTES

*December 12, 2017 10:30 a.m.*

101 Federal Street, 12<sup>th</sup> 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/2017/12/12/121217%20Posted%20Commission%20Meeting.pdf>
2. Report: "State Medical Marijuana Social Equity Plan Comparison"  
<https://www.mass.gov/files/documents/2017/12/12/Social%20Equity%20Combined%20Handout.pdf>
3. Handout: Sexual Conduct & Abuse-Related Offenses

The Chairman called the meeting to order at 10:30 a.m. and requested that Commissioners make sure the microphone was on when they were speaking. The Chairman thanked the Gaming Commission for allowing the Commission to use their facility.

The Chairman summarized the discussion the day before and noted that the Commission needed to discuss a category of licensing for research facilities that was left out the day before. The Commission will discuss social equity and priority economic empowerment review, background checks, the timing and the flow of the process in terms of actions on applications. The next main topic is operating requirements that the Commission is going to place on the various categories of licensees. Some specific to a category of licensee, some that cover multiple or all categories of licensees. There is also a set of operating issues that are generic, including things like waste disposal, inspections, enforcement and so forth. After that is deferred topics from yesterday, fees and capital requirements, leadership categories, as well as Martha's Vineyard and Nantucket issues.

Commissioner Doyle discussed creating a category of licensure for a marijuana research facility that may cultivate, purchase or otherwise acquire marijuana for the purpose of conducting research regarding marijuana and marijuana products. Research regarding humans must be authorized by an institutional review board. A marijuana research facility may not sell marijuana cultivated under its research license, but could also hold a marijuana retailer license, and if they were to sell any marijuana that they cultivated or any marijuana products that they generated for, or as a part of their research, they would have to ensure that it complies with all of the conditions that would otherwise apply to a marijuana product manufacturer or manufacture retailer. All research regarding marijuana must be conducted by individuals over the age of 21. So, for example, if this is being conducted as an academic institution they'd have to ensure that anyone participating in the research would be of adequate age to have contact with marijuana.

Commissioner McBride asked if the Commission was taking any view of sort of the crossroads between any federal funding if it were in like a research institution or a higher education institution. Commissioner Doyle stated the Commission would not. Commissioner McBride stated it would be at the research institution's peril. Commissioner Doyle agreed. The Chairman asked if the Commission could restrict topics researched. Commissioner Doyle said the institutions would have to apply, like another marijuana establishment and in that application process set forth the criteria for their research study and what they were going to be doing. Commissioner Doyle added that this may not be a marijuana establishment that would be ready for licensure come April or the Commission wouldn't be ready for applications come April 1<sup>st</sup>. The Commission may have to roll this program out a little more slowly to take advantage of any information that the Commission can get from institutions that do normally engage in review of research studies and that applications process and to build up sufficient staff, particularly the Commission had a Director of Research. Commissioner Title asked about the institutional review board. Commissioner Doyle explained that the institutional review board to ensure that any research involving humans is done in an ethical manner. She deferred any sort of thorough discussion on that until the Commission have some more information. The Chairman asked if Commissioner Doyle's recommendation was to add research facilities now or wait until the future. Commissioner Doyle recommended adding the category now, but deferring the application process for this particular category.

Mr. Collins stated that the question for the Commission therefore would be, whether or not to authorize a category of license for marijuana research facility to cultivate and purchase and otherwise acquire marijuana for the purpose of conducting research regarding marijuana and marijuana products with the conditions stated on the slide, which include any research involving humans will be authorized by an institutional review board. The marijuana research facility may not sell the marijuana cultivated under its license, but may also hold a retail license. And also, research regarding marijuana must be done by individuals over the age of 21. Commissioner Doyle made the motion to approve and it was seconded by Commissioner Title. The Commissioners voted unanimously, 5-0, in favor.

Commissioner Title explained that there were no slides on the effect of prohibition on communities of color, because that discussion has been had, that point has been made and heard, most recently during the listening sessions. Before that, during the legislative deliberation for Chapter 55, before that, during the campaign for Question 4, and before that for decades. It is well established by data

that racial disparities in the enforcement of marijuana are ubiquitous in every state, that Massachusetts is no exception, that they persist in Massachusetts before and after decriminalization and that debate has been settled. These provisions have been enacted in response to those well settled principles. Therefore, understanding the process that led to these provisions the Commission can work directly from the legislative mandate.

Commissioner Title explained that she started with two primary legislative mandates related to equity. The first one is Economic Empowerment Priority Review, which was added by the Legislature in to Chapter 55 in the spring. This is the requirement to grant priority review to licensees that can demonstrate they promoted economic empowerment in disproportionately harmed communities. Priority review is a standard of review, which means, if an applicant can show that they meet whatever criteria the Commission decide to put in place, that applicant will then move ahead in line, so hopefully they can open their doors sooner. It is not a license designation. An applicant would still have to go through the same exact application for cultivation, manufacturing, retail, microbusiness, and then you would hold the same license as anyone else. This is about speed through the process. The second mandate is the Equity Program. It was originally in Question 4, as passed by the voters, and it requires the Commission to ensure that people from disproportionately harmed communities are included. It is a somewhat broad mandate, but the Commission can look at comparable equity programs across California, Pennsylvania, Ohio, and Florida.

Commissioner Title said the last issue was steps that the Commission can take to ensure that the Massachusetts industry in general is an accessible industry. As the Market Participation Subcommittee of the Advisory Board recommended, it's very important that the Commission keep that goal in mind, and weave it through every decision that the Commission make, not just while the Commission covers this topic. Commissioner Title reviewed the language from the law.

The first is priority review for applicants who have promoted economic empowerment. The second one is procedures and policies to promote and encourage hopeful participation, the Equity Program. There are two different disproportionately impacted community sets that the Commission is looking at. The first one is those disproportionately impacted by with a citation to the federal Control of Substances Act, referencing drugs in general. The second one is specifically marijuana prohibition and enforcement. The two separate mandates may apply to groups that overlap, but they are essentially separate groups of people. An application could qualify for both, but not necessarily. Through Section 77 of Chapter 55, the Legislature required that the Commission would be objectively rated on how the Commission accomplishes this.

The Commission has to track the number and percentage of minorities, women and veterans who are employed and who are owning businesses. If those numbers are not good, the Commission has to come up with numerical goals, and the Commission has to do all of these programs that are bolded on the slide until the Commission gets those numbers up. So, recruitment of minority-owned, women-owned, veteran-owned businesses, development of workforce training, creation of employer training and outreach to disadvantaged groups.

Commissioner Title reviewed what other states had done regarding equity. In Florida \$10.00 of the fee from each patient ID card is allocated to the express purpose of educating minorities about

medical marijuana, 1 of 10 new treatment center licenses are allocated for the Black Farmer and Agricultural Association. In Ohio, there's a straight quota that at least 15 percent of medical marijuana license will go to minorities assuming that there's a sufficient number of applicants. In Pennsylvania, the DPH has to conduct various types of outreach, keep track of various types of data and then significantly at the bottom, you'll see there, out of a very competitive application process that is scored, the scoring system allocates 10 percent to the applicant's diversity plan.

Commissioner Title identified the issue of defining the communities that have been disproportionately harmed. A preliminary report by Dr. Jon Gettman was distributed to the Commission on December 11. The reason it's preliminary is due to data. Commissioner Title recommended that the Commission use the phrase "areas of disproportionate impact as defined by the Commission" for drafting purposes. Commissioner Title further recommended that the Commission will continue collecting data until January 2, and on that meeting the Commission have a detailed conversation about methodology, and can vote on the exact method, that would be my recommendation. Commissioner Doyle asked about language. Commissioner Title said she would continue and then the Commission could come back to that issue.

Commissioner Title discussed how to determine whether an applicant meets the standard of economic empowerment. No state or city has this particular language about people who have promoted economic empowerment specifically. The recommendations are a suggestion to try to stay true to that language. There's many different ways to promote economic empowerment. All of the other equity programs were reviewed to come up with the list. Commissioner Title recommended that the owners of the company should demonstrate two of the factors on this list on the slide.

The factors are: the majority of ownership belongs to people who have lived in areas of disproportionate impact for 5 of the last 10 years; a C Level Executive has economic empowerment experience, which would be where the primary population is served, or disproportionately impacted, or where primary responsibilities included economic education, resource provision, or empowerment to disproportionately impacted communities; at least 51 percent of employees or contractors reside in areas of disproportionate impact, and will increase to 75 percent by first day of sales; at least 51 percent of employees or contractors have a drug related CORI, they can show that they had a past conviction, but they would have to otherwise be legally employable in cannabis enterprises. For people who have demonstrated economic empowerment promotion, but is not on the list, they can demonstrate that in their own way and after that if they meet the criteria for priority review, they would have the same requirements as any other applicant.

Commissioner Title discussed an example. XYZ Corp. wishes to apply for priority review as a prospective owner of a retail establishment. It is owned in equal shares by Beyoncé, Kelly and Michelle. XYZ submits an application for priority review demonstrating that two of the owners, Beyoncé and Kelly together holding a majority of ownership, because it's 2 out of 3 equal shares. They have lived in an area identified as an area of disproportionate impact, so that's 1. And then they hire a team of employees, 60 percent of whom have a drug conviction, so now they have 2. Because they meet at least 2 of the criteria, they would receive priority review. In step 3, if they meet the requirements for suitability as the licensee, the license will be granted.

The Chairman asked for clarification on the timing of priority review. Commissioner Title said she just designated priority, not a time period. The Chairman asked for clarification that there is no gap required between priority review and normal review. Commissioner Title suggested coming back to that. Commissioner Title commented that when she said both groups, she meant registered marijuana dispensaries and the economic empowerment.

Commissioner Title reviewed the goals of the Equity Program. The Commission is including people from communities that have previously been disproportionately harmed by marijuana prohibition and the law requires to positively impact those communities. The first element is what criteria will determine whether or not the applicant is eligible for the Equity Program. The second element is if an applicant is eligible, what benefits or services will they receive.

Commissioner Title explained in California, this process is really being led at the municipal level and this chart is just a process note for what a complicated question this is. The four cities that have gone through this process, Oakland, Sacramento, Los Angeles and San Francisco have held multiple day long hearings on this topic, issued more than 100 pages of reports, issued draft by-laws, and they are still very much in the middle of the process. Commissioner Title referred to the slide about how each of the cities have decided to treat these issues and that the examination of these programs was one of the factors, in coming up with recommendations, in addition to the legislative mandates and the input from the public.

Commissioner Title said that there will be criteria for equity applications, benefit for equity applicants, and there will be requirements for non-equity applicants, because in some cases licensees could want to contribute to social equity, but not themselves be an equity applicant. There would be requirements for all applicants, something like a diversity plan, including options like community reinvestment, which is called for by the law. There could be requirements for dispensaries that are transitioning to adult use.

Commissioner Title recommended a 1:1 determination ratio, which means that for each non-equity license that is granted an equity license is granted in those jurisdictions. There should also be outreach and dedicated funding for the equity program. The Chairman asked if there would be dedicated funding for the outreach or is it dedicated funding to support the applicants. Commissioner Title responded that in some cases like Oakland, it's \$3.4 million fund that will specifically be used for loans. In other cases, it's community reinvestment more generally, and in other cases it's technical assistance. Commissioner McBride asked about the funding: is it like a legislative like general appropriation or through their licensing fees. Commissioner Title responded that Oakland uses licensing fees and sets aside the \$3.4 million. She believed San Francisco was the same, but not sure. Commissioner Flanagan asked about the 1:1 ratio being performed at the municipal level rather than state. Commissioner Title confirmed that it was done in Oakland and Los Angeles at the municipal level.

Commissioner Title discussed the eligibility question. She referred to a slide listing several factors that the states and cities mentioned previously have used in their determinations of who is eligible for an equity program. The question is what factors the Commission will look at to represent how likely that person is to have been harmed by marijuana prohibition or to be part of a community that has been disproportionately been harmed by marijuana prohibition. And this slide is very

relevant to the question of defining those areas as well.

Commissioner Title recommended arrest data and prior convictions, so, regardless of where you live, if you have a prior conviction you would be eligible for the Equity Program and family history, such as, if you had a parent who had a conviction or was previously incarcerated. Women-owned business and veteran-owned business are designations that have been used in other jurisdictions and Equity Programs, which she also recommended as required by law. She commented that housing insecurity is something that San Francisco used, so if you have been evicted or otherwise, or are in a transitional situation in San Francisco. San Francisco also included whether the applicant had attended public school.

The Chairman asked if Commissioner Title had any thoughts about where the Commission deals with the issue of women and veteran-owned businesses. Commissioner Title said she had that later in her presentation. The Chairman asked about other categories besides women and veterans and whether the Commission was going to discuss that. Commissioner Title she had a few suggestions later in her presentation. Commissioner McBride asked with regard to the previous slide of prior convictions, if they were narcotics-related or prior convictions period? Commissioner Title responded that it would be prior drug conviction, but still eligible under the regulations, such as marijuana possession or any marijuana offence or G.L. 94C. Commissioner Flanagan asked if the conviction had to be in Massachusetts or could it be from other states, because she knew in the Los Angeles system, the conviction had to be in the State of California. Commissioner Title responded that it would be a conviction in Massachusetts or equivalent crime under her recommendations, but she was open to discussing it.

Commissioner Title said the Commission had talked about all the options except for race. Her recommendation was that the Commission do a race-neutral analysis and the reason for that is race is so engrained and embedded in the impacts of prohibition and would by definition account for the disproportional racial disparities. Commissioner Title noted that in Oakland, when they did their Equity Program they found that many of the areas that the data showed had disproportionate impact were being gentrified and people impacted were no longer residing in those areas, which led to the criteria of the 5 of the last 10 years comes from. Individual impact as a prior conviction, family impact is a parent or a spouse with a prior conviction. She added that California also has if you have a child or sibling with a prior conviction. The Chairman asked of the criteria she recommended, he only saw arrest data, prior conviction, family history, but didn't see the economic factor in there. Commissioner Title responded that her recommendation for defining the areas of disproportionate impact is to do that through arrest data and economic factors. The economic factors would be based on the data the Commission can get, and the way it overlaps with the arrest data would be something like unemployment or net worth. She will be recommending technical assistance as the benefit or service that is being received, in addition to a fee waiver.

Commissioner Title discussed priority permit processing. There already is a procedure in place for economic empowerment priority processing, so an equity applicant could meet those recommendations as well. She recommended fee waivers but not priority permit processing. The issue of designated licenses for equity applicants was a difficult one and she had conversations with impacted stakeholders and people from other jurisdictions about it. Oakland has designated licenses; Ohio has a 15 percent minority. She did not think this is the right program for

Massachusetts, because first it creates a separate but equal system, in which there are equity licenses and then there are non-equity licenses. She thought applicants should get assistance, but once the license is issued, they are the same as anybody else. Designated licenses are more appropriate for jurisdictions with competitive systems.

Commissioner Title discussed no interest, or low interest loans and cited Oakland as an example, which has dedicated \$3.4 million dollars. This idea was recommended by the Advisory Board Sub Committee and has been brought up over and over again by the public. Commissioner Title cautioned that she did not believe the Commission has authority under the Act as a Commission to create a loan fund. She suggested that the Commission recommend this to the Legislature, that this is a need to fulfill the Commission's mandate under the law. Commissioner Title asked Mr. Collins to comment based on his experience with Treasury if he could comment on the whether the Commission has authority under the Act to make loans, and if not, how that might be accomplished.

Mr. Collins stated that from an administrative standpoint, as currently situated, he did not know that it would be possible for the Commission to essentially issue lines of credit to licensees and to applicants, manage a loan program without explicit statutory authority and then set aside funds that would be retained in a revolving status. Given the set-up of the structure of the Marijuana Regulation Fund, he did not view that as something that the Commission is capable of today. It may be something to work with the Legislature on and make sure the Commission have the authority and appropriate staff administratively to monitor that. Creditworthiness is something that the Commission would have to ascertain, making sure that folks are current on their loans, whether there's interest rate reductions or zero interest loans, and make sure they've got flexibility. The Commission is not currently situated to do that.

Commissioner Title thanked Mr. Collins and recommended that the Commission turn that into a proposal for the Legislature, but at this time pursue technical assistance through a designated fund. Technical assistance would entail management, recruitment and employee trainings, accounting and sales forecasting, tax prediction and compliance, legal compliance like legal clinics, business plan creation and operational development, and marijuana industry specific best practices. Her recommendation is that the Commission would partner with organizations that are already experienced in offering similar technical assistance, to make sure that they are trained and to offer these programs to equity applicants and frequently evaluate them on performance goals. The Chairman asked if assistance would continue after an application was granted. Commissioner Title said it would.

Commissioner McBride asked what types of entities would provide the management and employee trainings. Commissioner Title recommended opening that to the public, but she is envisioning non-profits management business training operations. Commissioner Title discussed the limitations of funding by appropriation. Commissioner Title discussed programming for restorative justice, jail diversion, workforce development, industry specific technical assistance and minority services for the communities. Commissioner Title explained that the language on industry specific technical assistance is what she believed gave the Commission the authority to set up either a fund or a designated portion of the Marijuana Regulation Funds itself. Money in the fund will be expended for implementation, administration, and enforcement that the technical

assistance would come under the Commission's implementation. Commissioner Title asked Mr. Collins to comment.

Mr. Collins stated that the Marijuana Regulation Fund is also subject to appropriation and as a result the Commission would need to go before the Legislature. What the Commission could do in that context is develop programs, but also work collaboratively with the Legislature in order to make sure that that funding is adequate to set aside for programs that are priorities of the Commission.

The Chairman asked how it related to the preparation of the fiscal year's budget that included technical assistance. Commissioner Flanagan said the Commission is going to go in to the next fiscal year like any other state agency would, which would mean that, there are going to be meetings with both Ways and Means Chairmen and staff. The Commission may to be asked to testify before the Ways and Means Committee hearings that happen throughout the state. If the Commission put a collective package together and present that one package for the next fiscal year, then we'll be able to satisfy whatever fiscal concerns that the Commission has throughout this whole conversation this week. Keeping in mind that the Commission are not going to know until July 1, what the number is, because the Governor is going to submit his budget in January, Ways and Means is going to go out in February and March and do their hearings. In April, the House is going to debate their budget and in May the Senate will do that. The Commission will have a number by July.

The Chairman said before July 1, the Commission is covered the Fiscal 18 Supplemental Budget that was just approved and signed, where there is specific funding for this topic. There may be uncertainty about Fiscal 19, given the timeline suggested, but in the preliminary budget that has been submitted and it's literally a placeholder until the Commission finish these conversations. The Chairman felt confident the Commission can support this, depending on the decisions the Commission make today, the Commission can support this for the remainder of Fiscal 2018 and is confident that the Commission will develop and get approval for a budget to support this in Fiscal 2019. He wants the Commission to make some decisions on what the Commission is offering in terms of supports, and then make sure the Commission have a good budget to deliver against those commitments.

Mr. Collins added that in the context of the marijuana regulation fund, one element and one aspect of it could be absorbing some of these programs within the Commission's administrative budget. Another element could be the Legislature appropriating direct to certain criteria. For instance, included in the marijuana regulation fund is municipal police training and public safety elements, that they may allocate funds to them separately and explicitly, whereas, some of this also could be absorbed within ours. So to your point, there are a few different ways to accomplish this, and the Commission would have some flexibility from a programming sense.

Commissioner Title stated that her recommendation would be the Commission do both, but in terms of the way that technical assistance is framed here, that should be part of the Commission's budget just like every other mandate that the Commission have. The loan fund should be pursued with the Legislature. Commissioner Title provided an example on how the Equity Program might work. There is a corporation with five owners, they have equal shares, they submit an application



to the Equity Program providing evidence that one of the five owners has a prior marijuana related conviction. A second owner has no past convictions, but her parent had a drug conviction and a third owner has resided in an area of disproportionate impact for 6 of the last 10 years. She explained that if her dad was teaching her about business, while someone else's dad who used marijuana at the same time, at the same time was incarcerated, that is the disproportionate impact. The person impacted would be eligible for the Equity Program and get technical assistance to learn about how to do legal compliance, how to create a business plan, how to run a business and after that they are just like any other licensee. The Chairman asked about fee waivers. Commissioner Title stated that would apply to the application fee.

Commissioner Title discussed inclusion of underrepresented groups. The law requires the Commission to track and prepare annual reports on the percentages of owners and employees who are minorities, women and veterans specifically. She had three recommendations, independent of the economic empowerment and equity program. First, the Commission should require all applicants as part of probably the management and operations profile submit and adhere to a diversity plan to promote racial and gender equity, including veterans and people with disabilities. Second, the Commission should partner with organizations located throughout the commonwealth to create workforce development programs offering skills based training programs and establishing equitable employment opportunities for minorities, women, veterans, and low-income individuals. Third, she recommended that to ensure robust community outreach and stakeholder engagement, the Commission should create educational materials in multiple languages and disseminate them on the website and in-person trainings throughout the Commonwealth. The Commission should create a resource to connect individuals with the existing resources at the state level to obtain diversity certification, such as minority owned and women owned business certification.

Commissioner Title discussed if someone is not eligible as an equity applicant, but still wants to contribute to social equity and be recognized for those contributions, she has two recommendations. First, that as part of the mandate that the Commission has to positively impact all disproportionately affected communities, the Commission should simply ask each applicant to come up with a plan for how they would positively impact those communities. That allows for a lot of flexibility, in terms of whether they just want to make a donation or they want to mentor or any other innovative way that they would like to positively impact communities. Secondly, the Commission should offer a social justice leader designation annually to businesses that donate one percent of gross revenue to the technical assistance fund for the equity program and conduct 50 hours of educational seminars, which means you would partner with a partner organization and bring your subject matter expertise in the cannabis industry to the equity applicants who are attending. This is an entirely voluntary designation. Those that do it would receive recognition in the annual list of social justice leaders and she recommends that they also be able to mark their product packaging with a seal such that consumers who are wishing to support social justice leaders would be able to easily identify the products that have been made by those companies.

Commissioner Title discussed the 1:1 ratio that several other jurisdictions have. She had two recommendations on that point. When the Commission is examining priority review for the existing dispensary priority applicants and the economic empowerment priority applicants, which are both expedited, the Commission should grant those priority review designations in an alternate way. So, alternate priority review to ensure an equitable distribution by reviewing RMD

applications until one is approved, then switch to reviewing economic empowerment applications until one is approved, and so on. If the Commission runs out of one type then the Commission continues processing the other, such that priority is granted on an alternating basis, and if we one run out of one type, then we continue processing the other. The second recommendation is that, in cities or towns where the number of marijuana establishment licenses have been limited and both qualified general and social equity applicants have applied, the Commission should grant one state license to a qualified social equity applicant for every state license granted to a qualified general or non-equity applicant. Based on the conversations yesterday, she doesn't think that concept will be approved by the Commission. However the issue of municipal approval has been the barrier in the medical process for several years. The Commission needs to have an honest conversation about how equity applicants can have a fair chance. If the Commission does not end up approving this particular idea, what are the other ideas to move past that barrier?

Commissioner Flanagan asked how the 1:1 ratio worked with geographical areas and asked for more information on why municipalities were the barrier. She wanted to know if they are the barrier because they don't understand the issue or are they a barrier for other reasons, whether it's processing, procedurally. She mentioned that municipal officials have repeatedly asked for guidance. If there was a way the Commission can help alleviate that with guidance for municipalities, did Commissioner Title think the process would get better for businesses. Commissioner Title agreed that if issuing guidance would help reduce the municipal barrier, the Commission should pursue it. The Chairman asked to defer debate on that issue at the appropriate point when the Commission go back through all these topics to talk about them. Commissioner Flanagan said she was not sure it was a debate, she just wanted to understand what the barriers were at the municipal level. Commissioner Title said a variety of factors, but she agreed it didn't have to be determined at this time. Commissioner McBride expressed concern that there was a presumption that the conversation yesterday about the Commission's authority over municipality had been mixed with a statement on equity issues. She stated that the technical assistance piece was tremendous, squarely on point and what may be needed where there may be disproportionate power in a negotiating relationship. That is the sort of the type of program that the Commission has capacity for. She reiterated that her concerns were about the Commission's capacity and what the Commission is able to do and also what the legal authority is.

Commissioner Title responded that if a particular recommendation was not approved, the Commission should think about an alternative, possibly making it part of the technical assistance learning how to navigate municipalities.

Commissioner Title discussed how the Commission could formally receive feedback from people in impacted communities to evaluate whether to goals are being met. She suggested that first, the Commission design an outreach plan and that the Commission devote funding to it. Second, that the Commission collect data and release it publicly, which the Commission is already obligated to do under the law. Third, that the Commission appoint a Citizens Oversight Committee, which the Subcommittee on Market Participation also recommended. The idea is that the Commission would appoint a 10-person committee comprised of people from the impacted communities. Their general job would be to measure and give the Commission feedback on progress. Specifically, in terms of the tax revenue allocation for things like, restorative justice, jail diversion, and other services that the Commission haven't discussed in this presentation, that the Citizens Oversight

Committee would give the Commission recommendation on that.

The Chairman recessed the meeting until 12:15 p.m.

The Chairman reconvened at 12:15 p.m.

The Chairman recommended going through the recommendations that Commissioner Title made one by one.

Commissioner Title recommended that rather than define what areas of disproportionate impact are now, but because of the data limitations, she proposed that the Commission move forward and vote using the term, “areas of disproportionate impact as defined by the Commission” as a placeholder. Then, after reviewing the preliminary report, at the January 2 Commission meeting, the Commission discuss and vote on analysis for identifying areas of disproportionate impact based on the data available at that time.

Commissioner Flanagan agreed. She thinks the report will be helpful, especially when talking about the application process, and talking about economic empowerment, to determine what cities and towns they are talking about. Commissioner McBride asked when the data collection would be final. Commissioner Title responded that it had been ongoing. The preliminary report used uniform crime reporting data, as well as data provided by certain based cities that are listed in the report, but would need to be divided in to smaller geographic units. On January 2 the Commission will go with what data the Commission have. The Commission discussed the timing of the data collection, the preliminary report and having time to review the data. The Chairman recommended getting this on the agenda for the 2<sup>nd</sup> of January for the Commission meeting and then the Commission can decide whether the Commission has sufficient data to make a decision or needs to ask for additional information. The Chairman asked the lawyers on the Commission if there was a problem not using specific language. Commissioner Doyle responded that it was not ideal, because the Commission wanted to give people some notice so that they can react to the information in the same time period that they’re reacting to the other draft regulations. The Commission can try to do the best the Commission can to update the information. The Commission is under such constrained time deadlines, due to the statute and due to the difficulties in collecting the data. Commissioner McBride agreed on the constraints of the filing deadline of the 29<sup>th</sup> of December, in order to make sure that the Commission is meeting the March 15<sup>th</sup> deadline. Once the Commission develops further data, the Commission may have to go back out for some sort of public hearing in the intervening time if the Commission is going to be significantly modifying and then maybe doing an emergency regulation. It bears reminding that the Commission is going to be going through also an extensive public comment period where the regulations that the Commission draft will be modified in response to that public comment period. If it’s something that is going to be a significant change, the Commission may have to contemplate if the Commission has to go back out to get further feedback. Commissioner Title said that was exactly the right approach. Commissioner Doyle asked questions about the slides versus what had been previously distributed to the Commission and the Chairman explained the slides had been updated since the handout was distributed.

Commissioner Title moved that the Commission use the placeholder term, “disproportionate

impact as defined by the Commission” for the purposes of discussing the Equity Program and the Economic Empowerment Review Program and the others in this presentation and then put on the January 2 agenda to discuss and vote on analysis for identifying areas of disproportionate impact based upon data available at that time. Commissioner McBride requested that it be delayed to January 9, in light of the week that needed to be done to finalize the draft regulations in the next two weeks. Commissioner Title agreed to the friendly amendment. Commissioner Title made the motion with the amendment, Commissioner Flanagan seconded. The Commissioners moved unanimously in favor, 5-0.

Commissioner Title asked if there were questions on empowerment priority review. Commissioner Doyle asked about the bullet point that starts “at least 51 percent...” and expressed that it might be a high percentage to require and not be achievable. She asked for the basis of the number. Commissioner Title clarified it is not a requirement, that applicants only have to meet two criteria, and it came from Sacramento, which requires a commitment to employ 51 percent transitional workers. It describes those with a broader definition, which is having a prior arrest and conviction for misdemeanor or felony, homeless, a custodial single parent receiving public assistance, lacking a GED or high school diploma, suffering from chronic employment, having been emancipated from the foster care system or a veteran. Commissioner Doyle commented that the broader definition seemed more achievable. Commissioner Title asked whether Commissioner Doyle had a recommendation for a more achievable percentage. Commissioner Doyle responded that she did not, because she did not have sufficient background to know what was reasonable. She would like it to be achievable, not an insurmountable hurdle, even though she knows it is just an option. Commissioner McBride commented that it was largely up to the licensee how they structure their employment practices. If it benefits one of several factors so the Commission can take it in to consideration that leaving it at 51 percent is okay, because it gives the options to licensees if they decide they would like to go over and above they can. Commissioner Flanagan discussed having a specific number versus requiring a simple majority of employees and the impact on small businesses. Commissioner Title explained that for the number of people in Massachusetts off hand, what came up was that there are more than 20,000 people who have had their cases dismissed to the drug lab scandal. The Chairman discussed the issue of options in the slide and the criteria of “C-Level Executive” as meaningless and that it might be better to say one of the top two or three executives in the organization. Commissioner Title asked how to define the top. The Chairman said the Commission could ask the applicant to certify or ask for an organization chart. Commissioner Title said the applicant could just put the person on the organization chart. She asked whether the Commission could replace “C-Level Executive” with majority of ownership. The Chairman agreed that would address his concern. Commissioner Doyle asked if the Commission was going to define economic empowerment experience or provide some regulatory guidance on what would count. Commissioner Title explained that it would not fit on a slide, but that it would be that the majority of ownership belongs to people who have held one or more previous positions where the primary population served more disproportionately impacted or where primary responsibilities included economic education, resource prohibition or empowerment to disproportionately impacted individuals or communities.

Commissioner McBride discussed the timing of the application packets, deadlines for taking action and whether there would be an initial like phase for determining eligibility. Commissioner Title responded that it would be a predetermination. Chairman Hoffman asked if the other

Commissioners were comfortable with using 51% of employees with drug-related CORIs. Commissioner Doyle said they could always go back and revisit the issue if they find it is an insurmountable hurdle.

Mr. Collins stated that the recommendation relative to eligibility for priority review was that the Commission grant priority review to applications who demonstrate two of the following: majority of ownership belongs to people who have lived in areas of disproportionate impact, as defined by the Commission, for 5 of the last 10 years; majority of ownership has economic empowerment experience, and I would note that empowerment experience will be identified or defined in the regulation; at least 51 percent of current employees or sub-contractors reside in areas of disproportionate impact and will increase to 75 percent by first day of sales; at least 51 percent of employees or subcontractors have drug related CORI or can demonstrate additional significant articulable past experience in/or business practices that promote economic empowerment in areas of disproportionate impact; and after this preliminary determination, same requirements as other applicants. Mr. Collins asked if this is a priority review for any applicant; the third bullet point is the 51 percent of employees reside in areas of disproportionate impact and will increase to 75 percent to first day of sales, should be corrected to first day of business to allow for cultivators or manufacturers. Commissioner Title agreed. Commissioner Title made the motion to approve, seconded by Commissioner Flanagan. The Commissioners voted unanimously in favor, 5-0.

Commissioner Title stated that Commissioner Flanagan brought up an excellent point about individual impact and family impact if the person has a conviction in Massachusetts versus another state. She proposed that a conviction in another state that was equivalent would count, but that the Commission add the same residency requirements, whether it's 12 months or longer. Commissioner Doyle asked for clarification on the residency requirement. Commissioner Title clarified that it would apply only for the second and the third bullet point on the slide. Commissioner Flanagan added that the intent of her request was that if you've been convicted in Massachusetts, that should give someone priority over if someone has a conviction in other states and are just coming here for that reason. She wanted to take care of communities disproportionately impacted in Massachusetts. Commissioner Title agreed. She read that an individual impact application are those who have a previous conviction for Chapter 94C offenses or an equivalent record in other jurisdictions.

Mr. Collins read that regarding the Equity Program, the recommendation is that applicants are eligible if the majority of owners can demonstrate that they reside in areas of disproportionate impact to be defined by the Commission for 5 of the last 10 years, or they are a Mass resident for the prior 12 months and they have a prior Chapter 94C or related other jurisdiction conviction or, finally they are a Massachusetts resident for the prior 12 months and they have a parent or spouse with a prior chapter 94C conviction or related conviction in another jurisdiction. Commissioner Title made motion to approve, seconded by Commissioner McBride. The Commission voted unanimously in favor, 5-0.

Commissioner Title asked if there were any questions or discussion on the recommended technical assistance and fee waiver benefits for equity applicants. Commissioner Flanagan asked if there should be language acknowledging the Commission may not have sufficient funds at the beginning for the program. The Chairman said he believed there would be sufficient funding. Commissioner

Flanagan clarified that her question is about funding going forward. The Chairman said he didn't think the Commission should state it will be based on fees, but that it will be based on what's in the budget to accomplish this objective. For fiscal 2019, they wanted to ensure that the budget would have the money necessary to fund this program. Commissioner Doyle asked if the budget was contingent on projected revenues. The Chairman confirmed it was not. He added there is money in the supplemental budget in fiscal 2018 for this program. Commissioner Flanagan asked Commissioner Title if she sees this as a rolling program. She confirmed she did. The Chairman asked Commissioner Flanagan if she agreed the Commission has the funding for this program this fiscal year. The Chairman discussed making sure this program was adequately funded in upcoming fiscal years. He felt it was cleaner to make sure the operating budget of the Commission includes sufficient funding for this. How that gets funded, whether it's through fees or through a trust fund, is a complexity, but the Commission will ensure in every budget that it submits, starting in fiscal 2019, that this program is funded through the operating budget of the Commission.

Commissioner Title asked if the line item in the budget this fiscal year was "community outreach." The Chairman agreed that it was. Commissioner Title said she had recommended that a portion of fees be set aside because she thought the Commission had more control over it. Commissioner Flanagan clarified saying, "setting aside a portion of fees" gives security to the public that the Commission is going to take the money that's coming in and put it towards the intent. That's going to be a little different than once the Commission is done worrying about fiscal year appropriations, it gets up and running and has additional fees. The Chairman asked Mr. Collins for clarification because he believed that the fees go in to the Trust Fund and the Trust Fund is subject to legislative appropriation, therefore it would be cleaner to say it is part of the budget. Commissioner McBride mentioned there is a significant ability to sweep them regardless of the Commission's wish and the Chairman was probably right.

Mr. Collins stated that the Marijuana Regulation Fund was a collection of all revenue generated by the program that includes fees, that includes the excise tax and any fines that may be levied by the Commission. Whether the Commission is setting aside a portion of fees or excise tax, it's all being deposited into one fund and then re-appropriated from there. The first purpose would be for the administrative costs, as well as for the Department of Agricultural Resources. Then there the other statutory priorities that the Legislature may authorize funding for. The Legislature would have to appropriate a certain amount of funds for the Commission, so one thing that the Commission could do is build into the budget request a program for technical assistance. From an operational standpoint, those funds may be generated through fees, they may be generated through excise tax or any number of other deposits. The Commission may not have ability per se to say the Commission is taking a portion of fees and earmarking it for certain use. It ultimately comes down to the Marijuana Regulation Fund will have X amount of dollars and the Commission gets a portion of that. As long it's built into the budget, it will be funded and could be funded for any number of deposits that get made.

Commissioner Title clarified that the portion that comes to the Commission is for that implementation, administration and enforcement part. Mr. Collins agreed. Commissioner Title continued that one of those items in the budget would be technical assistance.

Mr. Collins agreed but cautioned that there is also an opportunity that the Legislature may prioritize

elsewhere technical assistance, they would have that freedom to do that based on the language of the law of the regulation fund. They may prioritize additional police training for public safety. If the Commission want to maintain a program the Commission would have to build it within the operational budget. The Chairman confirmed that was how it was done for the FY18 budget and the placeholder budget for FY19. He recommended that the Commission do it as part of the budget rather than say it will take money out of the fund.

Commissioner McBride discussed drafting language to evidence the intent of the commission to channel appropriate funding right to that. Commissioner Title said that in addition to fee waivers, the Commission should authorize its intent to set aside portion of fees to provide technical assistance on the following topics. The Chairman said using “fees” would be limiting. Commissioner Flanagan recommended using “funds” instead of fees to incorporate whatever revenue source it is. Chairman Hoffman and Commissioner Title agreed. The Chairman asked about the lack of language on assisting applicants to engage in fundraising, especially since the Commission would need legislative approval to do loans themselves. Commissioner Flanagan said she thought the Commission was going to partner with non-profits rather than run the program. Commissioner Title said she thought the Commission would play a role, but not be running it.

Mr. Collins asked if fee waivers should be reserved for the fee discussion. Commissioner Title said it didn’t need to be. Mr. Collins said as it pertains to the benefits of the Equity Program, the motion would be in addition to fee waivers, the Commission should authorize its intent to set aside funds to provide technical assistance on the following topics: management and recruitment; employee trainings; accounting and sales forecasting; tax prediction and compliance and legal compliance; business plan creation and operation development; marijuana industry best practices; and assistance with raising funds for capital. Commissioner Title made the motion to approve and seconded by Commissioner Doyle. The Commission approved this recommendation unanimously, 5-0.

Commissioner Title stated that the Commission should require all applicants to submit and adhere to a diversity plan to promote racial and gender equity, and include veterans and people with disabilities as a general application requirement. Commissioner McBride asked when the Commission collects that information and ensures compliance. Commissioner Title said she pictured upon license renewal they would submit a follow up to their diversity plan that shows that they substantially followed it in good faith. Commissioner McBride asked if compliance could be defined.

Commissioner Title said it may be like some of the other operational requirements where it varies from business to business. Since it applies to all applicants, as long as they come up with a diversity plan and try, that is what she is trying to get at. The Chairman noted that while it helped with diversity in employment, it did not help with diversity in ownership. He noted that Colorado data revealed their ownership was not diverse. Commissioner Title said it was 1% people of color.

Commissioner Title said that if someone starts with employment, they gain those skills that can lead to ownership. She agreed that the Commission should add something perhaps on this program that pertains to ownership. The Chairman suggested something comparable to what the Commission just talked about in terms of some assistance. Some outreach first of all, to say here

are the opportunities in this new industry, and then assistance would maybe be a way of addressing that. Commissioner Title suggesting changing the next bullet point to the Commission should partner with organizations located throughout the Commonwealth to create workforce development programs offering skills based training programs, and then add something about ownership training. The Chairman suggested that the Commission could choose to outreach to these communities or these groups to let them know the opportunities; offer them assistance to successful apply for a license; and offer them assistance so that if they're successful in getting a license that they can run a successful business.

Commissioner Title asked if it would it address his concerns if the Commission made the second bullet point that the Commission should partner with organizations located through the Commonwealth to create outreach programs, technical assistance programs and then move on to the rest. The Chairman suggested that where it says skills-based training programs establishing equitable employment opportunities, the Commission should add to employment opportunities ownership, employment and ownership opportunities. Commissioner Title agreed.

Commissioner Title explained that the third point is to ensure robust community outreach and stakeholder engagement. The Commission should create educational materials in multiple languages and disseminate them on its website and in-person trainings throughout the Commonwealth. The Commission should create a resource to connect individuals with existing resources to obtain diversity certification. Commissioner Doyle asked about creating a resource. Commissioner Title responded that she was just picturing a website that explains what is minority-owned and women-owned certification, what the process is and then directs them to the Office of Supplier Diversity. Commissioner Doyle clarified that to obtain diversity certification is talking about from the Office of Supplier Diversity, it's different, not referring to the leadership program. Commissioner Title agreed. The Chairman discussed whether the Commission wanted to be very explicit about the communities that the Commission is going to try to help with these programs, because the Commission should be consistent with the language. Commissioner Title explained that the language regarding the minorities, women and veterans was directly from the law. The diversity plan however, was written to be as inclusive as possible. Commissioner Flanagan said the Commission has been pretty inclusive, but recommended having people with disabilities included. Commissioner Title agreed. Commissioner Flanagan said that if there is a business trying to do a diversity plan, it can explain the communities it is including, but if the Commission tries to identify every community, it could run into problems. Commissioner McBride added that if the Commission missed a group, it would hear about it during the hearing process.

Mr. Collins asked Commissioner Title, would be in the second bullet, he added in ownership of after equitable employment opportunities and it will be equitable employment and ownership opportunities. He also stated that he had technical assistance programs before workforce development programs. Commissioner Title agreed and commented on outreach programs.

Mr. Collins stated that as it pertains to the issue of inclusion of minorities, women and veterans the recommendation is that the Commission should require all applicants to submit a diversity plan to grow racial and gender equity and include veterans and people with disabilities as a general suitability requirement. The Commission should partner with organizations located through the commonwealth and create outreach programs, technical assistance programs and workforce



development programs, offering skills based training programs and establishing equitable employment and ownership opportunities for minorities, women, veterans and low-income individuals. Finally, the Commission should ensure robust community outreach and stakeholder engagement, therefore the Commission should create education materials in multiple languages, disseminate them on its website, and in person trainings through the commonwealth, the Commission should create a resource to connect individuals to existing resources to obtain diversity certification. Commissioner Title made the motion to approve, seconded by Commissioner Doyle. The Commissioners unanimously approved the motion, 5-0.

Commissioner Title explained the next recommendation is somewhat similar to the last one, in that the application should include a plan for how the business will positively impact communities disproportionately impacted by high rates of arrest and incarceration for drug offences as a requirement. Commissioner Doyle asked how it would relate to the social justice leadership program and should the Commission include it with the discussion of that. Commissioner Title said she would recommend that.

Mr. Collins said relative to facilitating the contributions and social equity programs the Commission should require all applicants to submit and adhere to a plan for how the business will positively impact such communities as a general suitability requirement. Commissioner Title made the motion to approve, seconded by Commissioner Doyle. The motion was approved unanimously by the Commission, 5-0.

Commissioner Title started discussion on alternating priority review, economic empowerment and registered marijuana dispensary priority review as written. The Chairman clarifies that the recommendation is that the Commission just go RMD, equity, RMD, equity, and asks if the Commission needs to say explicitly what happens if there's more of one than the other. Commissioner Title says that if the Commission runs out of one group, it keeps going with the other. The motion to approve was made by Commissioner Title and Commissioner Flanagan seconded the motion. The Commission unanimously approved that recommendation, 5-0.

Commissioner Title explained that the 1:1 ratio is based on the Oakland model and Oakland actually pairs general applicants with equity applicants and their fates are tied. What works for Oakland isn't necessarily going to work for Massachusetts, so Commissioner Title recommended from a particular municipality that had limited licenses, the Commission would grant one general applicant and then the Commission would ask for the next from that municipality to be an equity applicant before it would move on to granting the general ones.

Commissioner Doyle asked what would happen if the municipality did not approve an equity applicant. Commissioner Title said the Commission could enact a window of 90 days, for example, for an equity application to be submitted, but if that window passes and the Commission doesn't receive an equity applicant then the Commission move on to granting more general applicants.

The Chairman expressed interest in the Oakland idea because it creates a very strong incentive for the general applicant to offer the assistance that the Commission think might be required for equity applicants. As their own fate is tied up in how well the equity applicant does in terms of getting a

license. Commissioner Title added that that in Oakland 50 percent of the licenses are set aside for equity applicants. The Chairman discussed if there was an alternative introducing prioritization for somebody that comes in as a partner, in pairs, if the Commission can assure that everybody is going to be able to find a partner.

Commissioner Doyle if this process applies to new applicants or existing operators, because she was concerned the Commission could create a bottleneck similar that would create the supply problems experienced by other states. The Chairman clarified that he was talking about creating a third priority category as an incentive for paired applicants. Commissioner Flanagan asked if both applicants had to be approved or they failed. Commissioner Title confirmed that was how it worked in Oakland. Commissioner Flanagan expressed concern with requiring a business to tie its fate to someone else. Chairman Hoffman reiterated that his proposal was to provide a priority, not requiring the business to pair fates. The Commission would create an incentive, then it's up to the applicants whether they want to pair with somebody else or not.

Commissioner Title said she had concern about creating another category of priority review, because if you offer too many, it is not sustainable. The Chairman agreed. Commissioner Title added that she did not want to put equity applicants in a race if they're really depending on the technical assistance part. The Chairman agreed, but he was interested in the idea that the Commission create a strong incentive for those that have more experience, deeper pockets, more management depth and skills to help people that might have less of those things. Commissioner Title agreed.

Mr. Collins suggested the leadership program may provide that partnership between a mentor that is a non-equity applicant and one that is. The Chairman expressed concern that the incentive would not be sufficient. Commissioner Title said this is the most important recommendation and the Commission should keep brainstorming to come up with a solution.

Commissioner Flanagan said she had a concern about creating, like Commissioner Title said, too many prioritized categories, such that someone who is not eligible would not want to part of the program. The Chairman agreed that he shared that concern. He proposed another possible incentive of a fee adjustment for the mentor applicant or licensee. Commissioner Title reminded the Commission that the goal was to make sure the equity applicants are able to get through the process and mentorship would not necessarily be directly applicable to the problem. The Chairman said mentoring an equity applicant through the application process significantly increased the probability that they're going to be able to successfully complete the application process. The Chairman commented that if an out of state applicant's coming in under a general application, but they have significant experience in this business, they could provide enormous mentorship to an equity applicant to improve the probability that the equity applicant can successfully navigate the application process, get a license. Having the application tied to somebody else's application really strongly incentivizes me to help that other person get through the process. Commissioner Flanagan asked how the Commission ensures the little guy doesn't get manipulated for the benefit of the bigger company. The Chairman responded that one way to prevent gaming is the idea of a reduction in license fees only if your partner got the license.

Commissioner Title said the Commission should be considering that the more experienced person

or applicant/company to ensure that the equity applicant makes it through the process and make the incentive strong enough that the experienced operator would not just provide a one-hour mentorship call.

Commissioner Flanagan expressed concern that small business would be manipulated and there were not enough protections in place. The Chairman asked if the incentive only gets provided if the little guy gets the license, would it dissuade her concern. Commissioner Flanagan said that what the Commission is trying to do is get a group of people who are not in this business to be part of this business. If the Commission is talking technical programs and teaching them how to get funding and teaching them how to get capital, then they clearly are disadvantaged. She wants to make sure that disadvantaged position is not taken advantage of from a bigger company coming in.

Commissioner Doyle said she could see this program potentially working in a large city, like Oakland, but the Commission could potentially hobble opportunity in smaller towns. The Chairman clarified that he was not proposing that that pairing had to occur within a municipality. Commissioner Title asked which issue Commissioner Doyle was commenting on. Commissioner Doyle explained that it was where the number of marijuana establishment licenses have been limited.

Commissioner McBride agreed with the idea of incentivizing rather than requiring, and raised an issue of pairing an applicant with an experienced applicant who could experience a problem that could cause problems for the equity applicant. The Commission would have to think about a decoupling process. The Chairman agreed that it should be an incentive – not required – program and it should have safeguards to protect small businesses.

Commissioner Title proposed considering the idea for an incentivized way to partner equity applicants with the experienced operator with some incentive once the equity applicant is granted their license. Commissioner Title added that the Commission could provide guidance on municipal issues. The Chairman suggested deferring the topic. Commissioner Title suggested taking a short break before coming back and talking about incentives for a while. The Chairman agrees and recesses until 2:00 pm.

The Chairman reconvened the meeting. He stated that he thought there were three options. One is to do nothing. Second, is the Commission can try to come up with an incentive for the behavior the Commission is looking for and will not allow for gaming. The third option is to require this behavior, but he agreed with other Commissioners that the Commission cannot force pairing, at least not in smaller municipalities across the state, because it won't work logistically. He stated his preference for an incentive under which the experienced applicant gets a fee discount when the equity applicant gets a license. He commented that he was not recommending high fees, so discounted license fees might not be a strong incentive. He therefore recommended a lifetime reduction, rather than just a one-year reduction.

Commissioner Title said the idea of the 1:1 ratio and the idea of the incentivizing the experienced operator was getting at the same issue, which is to help the equity applicant pass these unnamed,

unarticulated, barriers, that the Commission may not be able to eliminate. The Chairman recommended against forcing pairing between applicants.

Commissioner Title recommended experienced operators be paired with equity applicants. Commissioner Doyle asked if experienced operators mean the term in the statute. The Commission discussed the parameters of the statutory term. Commissioner Title clarified that the appropriate group was RMD priority licensees. The Chairman asked about the Department of Public Health fees for RMDs. Commissioner Doyle responded that the annual registration fee was \$50,000.00. Commissioner Title asked how the Commission could incentivize the priority RMD licenses to assist equity applicants. The Chairman noted fees are meant to cover costs. He doesn't think the fees are going to be large enough to create a strong incentive. Commissioner Doyle analogized it to a recommendation from the industry subcommittee of the Cannabis Advisory Board regarding reducing fines if there is compliance with training—the Commission would consider participation in this mentorship program as a favorable element when balancing how a licensee performed in determining what disciplinary actions to take against if mistakes were made. The Chairman clarified that it was a “get out of jail free card.” Commissioner Doyle said that it was not get out of jail, but maybe a lesser sentence for good time, good behavior. She further clarified that it was mitigating circumstances taken into account that you have participated in this mentorship program, banking goodwill so to speak. The Chairman asked if it could be deferred to the next morning to allow everyone time to think. Commissioner Title agreed.

Commissioner Title started discussion on the Citizens Oversight Committee comprised of people from impacted communities before December 31, 2017 to make recommendations regarding the Equity Program and the tax revenue allocated for community reinvestment under state law. Commissioner Flanagan asked what their role was going to be, who do they answer to and what are they producing. Commissioner Title responded they are an advisory role, and what they are producing is recommendations, both feedback on how the Equity Program is going once it starts, and how that tax money should be allocated. They would not report to anyone but they would advise the Commission. The Chairman said the Commission would need this advice under any circumstance so the decision was whether or not to formalize it. He felt it should be formalized but wanted to make sure it is representative of all the communities that come under the designation that the Commission is going to come up with in January, rather than it be Boston dominated. Commissioner Title recommended making the date January 31. The Chairman agreed. Commissioner McBride asked what the relationship was with the Market Participation subcommittee of the Advisory Board. Commissioner Title responded that the subcommittee was much more broad than just impacting communities, women, veterans, farmers, minorities and businesses of all sizes. Commissioner Flanagan asked how it differed from the research agenda required in Chapter 55. Commissioner Title responded that the research would measure the impact that the Commission is making. Part of the goal of the Citizen's Oversight Committee is to reach communities that would otherwise be very difficult to reach and serve as a liaison. Commissioner Flanagan expressed concern about yet another oversight committee when the Commission should be making sure it works well, that this industry is moving forward and that things are happening.

Commissioner Title said it could serve as a check since none of the Commission are from the impacted communities. Commissioner Doyle asked about appointments. Commissioner Title said that the Commission could each appoint two people before January 31, 2018.

Mr. Collins asked about the title of the committee. Commissioner Doyle objected to calling it an Advisory Committee, because it would get confused with the Cannabis Advisory Board. Mr. Collins raised the issue that it should not be called an Oversight Committee because it had no oversight power. Commissioner McBride said she did not feel strongly, but the word oversight meant overseeing. Commissioner Doyle suggested Citizens Review Committee. The Chairman, Commissioner Title and Commissioner McBride agreed. Commissioner Flanagan said wording didn't matter to her.

The Commission discussed the number of people on the Committee and the Chairman offered to have only one appointee to provide an odd number of appointees. The Chairman summarized that it would be a 9-person Citizen's Review Committee appointed by the Commission before January 31<sup>st</sup>, 2018.

Mr. Collins said relative to a Citizen's Review Committee, it will be appointment of a 9-person Citizen's Review Committee comprised of people from the impacted communities before January 31<sup>st</sup>, 2018, to make recommendation regarding the Equity Program and the tax revenue allocated from community reinvestment. Commissioner Title made the motion to approve, seconded by Commissioner Doyle. The motion passed, with Commissioners Title, Doyle, McBride and Hoffman voting to approve and Commissioner Flanagan voted against.

The Chairman thanked Commissioner Title on all the work she had done.

Commissioner McBride started the discussion on background checks. The Commission has three statutory mandates that combined give the Commission the structure of what the Commission needs to do. The Commission is barred by statute to license an applicant that has been convicted of a felony. Statutory mandate No. 2 is that, the Commission shall come up with regulations regarding the qualifications for licensure and minimum standard for appointment that are directly and demonstrably related to the operation of a marijuana establishment. The third part is that the Commission shall conduct fingerprint based checks on licensees. The Commission needs to determine how to implement and factors that the Commission need to take in to consideration in looking at background checks.

Commissioner McBride asked whether there should be other non-felony factors directly and demonstrably related to the operation of a marijuana establishment that would disqualify an applicant for licensure. Looking at other states there are a range of ways to address this. For example, Washington has a point based system under which an applicant with more than 8 points is deemed unsuitable for licensure. Points for felonies within the last 10 years are 12 points, 5 points for a gross misdemeanor conviction in the last 3 years, 4 points for a misdemeanor conviction and so forth. There's 4 points for each nondisclosure of one of the above. Oregon has a more permissive approach, which takes into consideration a host of factors about how the conviction relates to the licensure determination. Alaska has an automatic disqualification for a felony conviction in the last 5 years and they have a 5 year look back period. Colorado similarly has a 5 year look back period.

Commissioner McBride recommended trying to balance opportunity with safety, health and

welfare. There would be a mandatory disqualification for open and unresolved issues having to do with criminal proceedings. Commission cannot determine someone's suitability if they don't know what the outcome is going to be.

If there is a marijuana business violation in Massachusetts or other jurisdictions, for example, there is a regulation that the applicant has not adhered to and it has resulted in a fine or a penalty or some other sort of discipline and it's open at this point in time, the Commission would take that in to consideration as a disqualification at that point in time. Any unresolved criminal warrants and then the other pieces are failure to register as a sex offender in Massachusetts, felony convictions in Massachusetts or a conviction for distribution of a controlled substance to a minor. The general idea is that the Commission really want to make sure that the Commission are preventing diversion and that the Commission are licensing individuals who the Commission think are going to be suitable licensees and are going to have shown good judgement. Those would be the mandatory disqualifications, the presumptive negative suitability finding.

Commissioner McBride said she would go into all the qualifiers that are there. She suggested non-felony weapons violations involving narcotics, firearms crimes and consider if there is a "body of work:" that if in the preceding 5 years there were criminal complaints, convictions, tending to show a pattern in harmful behavior, or bad judgement, that those be taken in to a consideration as a presumptive negative suitability finding.

Commissioner McBride explained that the Commission would have a suitability review committee within the Commission. It would not be made up of Commissioners, it would be staff from the Commission. The purpose of that committee would really be to review information about non-disqualifying offences and to consider appeals of unsuitability based on the claim that the information was erroneous. All the reviews are based on written information that will be submitted and the Commission would determine as part of its deliberation of the license whether to adopt the Suitability Committee's recommendation and the Commission would have discretion to do so. If the Commission disagree with it based on written evidence, then the Commission would have the ability to say that the Commission don't think that that is the correct recommendation.

Commissioner McBride discussed suitability review factors that the suitability review committee consider, which are based on what other states also consider. They are sliding factors, time since the events, a relationship of the offence or incident to the nature of the work to be performed, what the context was in which the offence occurred. It gives a healthy amount of leeway to really present a case as to why a licensee should be deemed suitable even if, under the presumptive negative suitability determination, the Commission would normally say no. It is an opportunity for the licensee to show the Commission that they are suitable for licensure.

Commissioner Title asked if the Commission staff on the committee would have any particular background. Commissioner McBride recommended that it be left to the Executive Director who to appoint, but she suggested the Outreach Director, the Human Resources Director and the Chief of Investigations and Enforcement to provide a well-rounded perspective.

Commissioner McBride recommended separation of the suitability review committee from the Commissioners. The Commission would not have oversight of it until it came before the

Commission as part of the licensing decision. The Chairman asked about proportionality in open marijuana business violations. His concern was holding up an applicant if the violation was trivial, such as turning in a paper a day late, so should there be differentiation between kinds of violations. Commissioner McBride stated that it was possible, but any open violation is of interest to the Commission and the applicant can re-apply once it is resolved. She did not recommend adopting approaches in other states where applicants were barred from re-applying for a certain time period. The Chairman agreed. Commissioner Doyle asked if in other states the equivalent to plea agreements and continued without a finding if there is an expression of culpability would be considered. Commissioner McBride said they could be.

Commissioner Title pointed out that for felony convictions in Massachusetts, the Commission are barred from disqualifying anyone over a marijuana conviction. Commissioner McBride explained she had prepared an appendix sort of suitability review that spells out what would not be considered, including juvenile convictions. Commissioner Title recommended against making anything other than marijuana business violations a mandatory disqualification without further review. She recommended a permissive approach like Oregon. The Chairman said on some of the bullet points, he did not think the Commission had that option. Commissioner McBride agreed. The Chairman said they would need legislative change to do that. Commissioner McBride agreed, saying under Section 5 of Chapter 94G, there's a bar to felony convictions. Commissioner Title clarified that she was talking about the other bullet points. She did not believe that other than what the Commission is required to disqualify people for, which is the felony conviction, not including marijuana, not including distribution of a controlled substance to a minor, the Commission should not disqualify anyone on a mandatory basis without very clear reasoning for why that offence is related to their ability and suitability to run a business.

Commissioner McBride went through the violations one by one. Open and unresolved criminal proceedings should result in disqualification because if there is currently a criminal complaint pending the Commission does not know if it's going to result in a felony conviction. While the applicant has that open criminal proceeding the Commission could hold the application open, but that could be holding the application open for a very long time. Commissioner Title asked if the bullet point meant criminal proceedings that could lead to a felony conviction that they would be barred for. Commissioner McBride stated that the Commission could certainly phrase it like that. If a pending criminal process could end with a result that the applicant could be barred for, it should be a mandatory disqualification until the process is resolved to keep the Commission moving along the licensing process, while also understanding that the Commission have to respect what the results of that proceeding could show. Commissioner Title asked if the Commission could use scalability, so that someone's application is not held up pending the resolution of a minor offense. The Chairman agreed with the premise that unless the Commission was statutorily required to disqualify people, other determinations should require judgment.

Commissioner McBride discussed marijuana business violations in Massachusetts or other jurisdictions, which she suggested being a mandatory disqualification, because it's indicative of the question about complying with regulations.

Commissioner Flanagan spoke in support of the mandatory disqualification for open unresolved criminal warrants. Commissioner Title expressed concern about mandatory disqualification for

someone who has not been charged or convicted. Commissioner Doyle asked about issues like mistaken identity. Commissioner McBride explained that there would be notice and an appeals process. The Chairman proposed that an open warrant be placed into suitability review rather than mandatory disqualification. Commissioner McBride agreed.

The Commissioners discussed the disqualifications and reviews required for sex offenders and sex offenders who failed to register as sex offenders, as well as offenses relating to firearms. Commissioner McBride stated that that adhering to firearms laws and permit requirements is not necessarily a difficult thing to do, so failure to do so brings someone's judgment into question and should result in a negative presumption that is rebuttable.

The Chairman asked for more detail on the process relating to the presumptive negative suitability finding. Commissioner McBride explains that the applicant would be provided information on their background check result and given the opportunity to provide information and context, for further review by the suitability committee. The Commission would then consider the recommendation of the Committee when deciding whether to grant the license. The Commission could also decide the suitability committee came to the wrong conclusion.

Commissioner McBride discussed firearms violations. Commissioner McBride and Mr. Collins described the vote as mandatory disqualification for open marijuana business violations in Massachusetts or other jurisdictions, but the Commission is going to move open unresolved criminal warrants down to a presumptive negative suitability. Failure to register as a sex offender will stay as a mandatory disqualification for a felony conviction for the statute. The conviction of distribution of a controlled substance to a minor will be a mandatory disqualification as required in the statute. A presumptive negative suitability finding that would be rebuttable would be offences relative to a non-felony weapons violation including firearms involving narcotics, open unresolved criminal warrants, firearms crimes and multiple criminal complaints during the 5 years immediately preceding the application for licensure tending to show a pattern of harmful behavior and bad judgment. Commissioner Doyle made a motion to approve, seconded by Commissioner Flanagan. The motion carried by 4 to 1. Commissioners McBride, Doyle, Flanagan and Hoffman voted in favor, Commissioner Title voted against.

Commissioner McBride discussed the staffing of the suitability committee to be employees, not Commissioners, appointed by the Executive Director. All reviews will be based on written information and the Commission would determine as part of its deliberation on the overall license application, whether it's worked off the suitability review committee's recommendation. Commissioner Doyle made the motion to approve, seconded by Commissioner Title. The motion carried unanimously, 5-0, by the Commission.

Commissioner McBride started a discussion of the registration of marijuana establishment agents for purposes of the background check component. The Commission is charged with establishing regulations on minimum standard for employment that are directly and demonstrably related to the operation of the marijuana establishment. Considerations are trying to make sure that there is opportunity and that the Commission are not disenfranchising any individuals or any communities. At the same time, the Commission must implement this industry in a way that is responsible, in a way that provides safety and welfare that takes in to consideration concerns about diversion, takes



in to consideration general public health and safety concerns. The Commission must also adhere to the parameters that are set forth in the statute among other components.

Providing employment opportunities is critically important to making sure that individuals have a good chance at creating opportunities for themselves and for their families, and improving their communities. The question is what if any factors directly and demonstrably related to the operation of a marijuana establishment could disqualify an applicant for registration as a marijuana establishment agent.

Commissioner McBride discussed what is done in other states. Alaska adopts the same thing for licensees or for permit workers, it's how they categorize them. Colorado has disqualifications for a felony in the past 5 years. Oregon examines crimes of violence or dishonesty. Oregon that has a look back period of 3 years, or if someone has 2 or more within the past 5 years.

The first recommendation is to establish suitability standards based on the type of marijuana establishment in which the agent is going to be employed. The second recommendation here is adopting the RMD model of licensees conducting background checks.

Regarding the second recommendation, Commissioner McBride explained that a licensee who would be certified by the Department of Criminal Justice Information systems, and then they would run the background for employees, volunteers, they would be the ones responsible for doing the background check and then using the information that the Commission is going to talk about now, to figure out if that person is suitable for employment. And if they're suitable for employment they would submit an application for registration with us.

Commissioner McBride explained the difference between a licensee and agent: The licensee is a number of people that are going to be submitting the application for the entire marijuana establishment to be licensed as the retail operation, as the distribution, a producer. And those individuals are the ones where the Section 5 of 94G applies to those individuals, the licensees. The registration is for employees, it's for volunteers, but then in addition to that it's for anyone who is going to touch that marijuana establishment. The Commission discusses adoption of the DPH background protocol for licensees and agents. Commissioner McBride made the recommendation to approve, seconded by Commissioner Flanagan. The motion was unanimously approved by the Commission (5-0).

Commissioner McBride says the first one is the retail marijuana establishment suitability standard. Individuals who are employed by retail establishments are indirect and direct contact with the consumers. They're much more likely to be receiving personal information, so therefore the standards should be higher for those employees. What is included here is a look back period of 5 years, and a disqualification for a conviction of felony crimes of violence or dishonesty in that 5-year period. A mandatory disqualification for a sex offense and that is defined in statute. Commissioner McBride distributed a handout on sexual conduct and abuse-related offenses. Commissioner McBride described mandatory disqualifications and presumptive suitability disqualifications for retail marijuana establishments.

The Chairman asked if the higher standard applied to all employees of a retail marijuana

establishment or a subset that touched customers or cash. The Commissioners discussed the pros and cons of either option. Commissioner McBride said her concern was sharing of personal information. The Chairman asked if this would cover the retail delivery-only license. Commissioner McBride confirmed that it would. The Chairman recommended that the retail standards cover retail delivery and independent delivery if the Commission approved them. The Commissioners discussed disqualification for sex offenders and failure to register as a sex offender. The Chairman asked for a motion to approve the slide as written. Commissioner Flanagan moved to approve, seconded by Commissioner Doyle. This motion was approved by a 4 to 1 vote, Commissioners, McBride, Doyle, Hoffman and Flanagan voted in favor and Commissioner Title voted against.

Commissioner McBride started discussion of the product manufacturer suitability standard. There is period of 5 years for violence or dishonesty, a look back period of 10 years a disqualification for sex offence. Disqualification for failure to register as a sex offender, a presumptive negative suitability determination for a crime of violence or dishonest within the past 2 years if there are 2+ convictions. There is a presumptive negative suitability disqualification for any open or open criminal cases. Considerations are for the prevention of diversion.

Commissioner Title asked about the difference in treatment of sex offenders and whether it was because there would not be interactions with consumers. Commissioner McBride discussed the different approach and protection of consumers with the balance of creating opportunity in the industry where it's needed and wanted. Commissioner McBride asked for a motion to approve the language as written on this slide. Commissioner Flanagan made a motion to approve, seconded by Commissioner Doyle. The motion was unanimously approved, 5-0, by the Commission.

Commissioner McBride started discussion of the cultivator or distributor agent standard. Distributor agent referred to agents transferring marijuana from establishment to establishment but not home delivery. Mandatory disqualification for a crime of distribution to a minor in any time period. A look back period of 3 years for felony crimes involving dishonesty. The consideration is possible diversion. Presumptive negative suitability for felony crimes of violence, again rebuttable, and a presumptive negative suitability for any open criminal cases. Commissioner Flanagan made a motion to approve, and Commissioner Doyle seconded. The Commission approved unanimously, 5-0, the motion.

Commissioner McBride started the discussion on standards for the home delivery agents, which have the same standard as retail agents. Commissioner Doyle made a motion to approve, seconded by Commissioner Title. The motion was approved unanimously, 5-0, the Commission.

Commissioner McBride started the discussion on action on applications, which will be modified to reflect the discussion on the equity component of it. The questions are what the process should be that the Commission adopts to act on licenses, whether the Commission need to establish a set timeframe for action on licenses, and whether the Commission will have a compliance process or a competitive process. Under the compliance process model the applicant submits the set information that the Commission requests and proceeds to licensure if compliant. A competitive process is a much lengthier process, more narrative process. She recommended that the Commission adopt a compliance process that takes in to consideration regulations adopted

regarding the priority piece of it. The evaluation is really based on demonstrated compliance with laws and regulations of the commonwealth, the background check piece and evaluation of the thoroughness of responses required criteria. That enables the Commission to keep things moving along, and enables applicants to continually be working on the application and that the Commission would notify when a packet is completed or not. If the Commission requires additional information, the Commission would be telling the applicant that this is the information that the Commission needs if it is not sufficient yet. Commissioner Doyle made the motion to approve, seconded by Commissioner Title. The Commission unanimously, 5-0, approved this recommendation.

Commissioner McBride started the discussion on the timeframe in which the Commission would act on a license. She recommended that the Commission adopt a 90-day timeframe in which to issue a provisional license after the last packet is complete and submitted. The Commissioners discussed provisional licenses. Commissioner McBride stated that within that timeframe the Commission would be requesting from the municipality a verification that the applicant complies with the local laws and that it's not within the 500-ft. buffer zone that was created by statute. The Commission would ask for that response within 60 days. If the municipality does not respond, the silence is acquiescence that the applicant has complied with the local laws and the Commission may move ahead. Commissioner Doyle asked about demonstrating compliance with bylaws and ordinances when a moratorium is in place. The Commissioners discuss the relationship of the execution of host community agreements and municipalities ensuring proper zoning is in place. Commissioner Doyle recommended that the applicants need to show compliance with local zoning at the time of the application. Commissioner McBride recommended two separation motions.

Mr. Collins stated the question regarding the timeframe for application processing the Commission will act on a provisional license 90-days following notification that all the packets are complete, within that same timeframe the municipality will be asked by the Commission to verify the marijuana establishment complies with all bylaws and it is not within the 500-ft. buffer zone of schools or reduced zone as adopted through local bylaw or ordinance. A response is requested within 60-days and should there be no response it is deemed compliant. The Commission can put conditions on the license if granted and if denied, state reasons why. Commissioner Flanagan moved to approve, seconded by Commissioner Doyle. The motion was approved unanimously, 5-0, by the commission.

Commissioner McBride described another recommendation to add verification by the municipality that the applicant is in compliance with zoning ordinances or by-laws as part of the application of intent packet. The motion to approve was made by Commissioner Doyle, seconded by Commissioner Title. The motion was approved unanimously, 5-0, by the Commission.

Commissioner Doyle started discussion on the process for licensees to change information. She recommended emulate the requirements under the medical use of marijuana program regulations for making those changes with an adjustment to recognize that there are different corporate structures permitted under adult use and in addition to the changes identified in medical use of marijuana program that the Commission may wish to ask applicant to notify the Commission when there is a change in their ownership or membership depending on the particular style corporation. Prior to modification, remodeling, expansion, reduction, or a physical change that is non-cosmetic

of the actual establishment itself, the licensee should submit an application and pay an appropriate fee, and the Commission should approve it. This is to make sure that they're still going to be in compliance with the Commission's regulations, particularly regarding security. Prior to changing their name and using that name in commerce, licensees should notify the Commission and get approval. They should also keep all information that they should submit to the Commission current. The materials that the Commission have required them to submit to the Commission as part of the regulations, if there is a material change in it they need to update it within 5 business days, to make sure that the Commission are current and understanding of what is going on with a particular operation. The commissioners discuss the frequency of ownership changes and the amount of ownership that would trigger the requirement.

Mr. Collins stated the recommendation is to emulate requirements of the medical use of the marijuana program, requiring change to materials submitted to the Commission with adjustments for different corporate structures depending on your adult use. Prior to changing locations, the establishment shall submit and request for such changes from the Commission, shall pay the appropriate fee if any, no such changes shall be permitted until approved by the Commission. Any change in ownership at all shall require notice to the Commission. Prior to change in ownership when a new owner acquires or increases equity to 10 percent or more, the employee initially subject to the background check as part of the application process, such proposed new owner or employee shall be subject to the background check. The rest is maintained as written on the slide. Commissioner Title made a motion to approve, seconded by Commissioner Doyle. The motion carried unanimously, 5-0.

The Chairman announced the next meeting is December 13, 2017 at 11:00 am in Minihan Hall, 6<sup>th</sup> Floor, 19 Staniford Street, Boston. The Minihan Meeting Hall is on the 6<sup>th</sup> floor of the Hurley Building. The Commission are adjourned as of 4:03 pm.