



CANNABIS CONTROL COMMISSION PUBLIC MEETING MINUTES

February 27, 2018 10:00 a.m.

Massachusetts Gaming Commission

Public Meeting Space

101 Federal Street, 12th Floor

Boston, MA

COMMISSION MEMBERS IN ATTENDANCE

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

COMMISSIONER MEMBERS ABSENT: None

LIST OF DOCUMENTS

1. Presentation: <https://mass-cannabis-control.com/wp-content/uploads/2018/02/022718-Commission-Meeting-1.pdf>
2. EEA Presentation: <https://mass-cannabis-control.com/document/eea-presentation-2-28-2018-commission-meeting/>

The Chairman called the meeting to order at 10:07 a.m. Chairman Hoffman said he is using the same slides from yesterday but he has shaded what was covered yesterday. The first issue discussed would be cultivation.

Commissioner Doyle said the Commission received a significant amount of feedback regarding craft marijuana cooperatives. There were questions about whether limiting it to six locations is appropriate, and has any impacts that were not consistent with what the statute wanted to do, which is help farmers, that there were no requirements in the regulations that actually compelled members of the cooperative to actually be a farmer, and that the cooperatives weren't limited to being anything beyond LLC, LLPs and any other business structure authorized by the Commission and comments encouraged narrowing that to more truly cooperative business model. She recommended that the Commission require at least 1 member to have filed a Schedule F, which is a report of farm income, within the last five years. The reason only one member would be required is to make room for new market entrants, and allow them to pair people who are experienced with people who are coming into the market for the first time. She also recommended that in addition to the LLC and LLP, the Commission change the omnibus

phrase at the end of the section talking about what business structures are acceptable, to be a cooperative corporation, which is under Massachusetts General Laws Chapter 157, and that the cooperatives be operated consistently with the Seven Principles set forward in the International Cooperative Alliance's publication of 1995. There are seven principles that are commonly known to govern cooperative models organizations. Chairman Hoffman for clarification about what "requiring" means. Commissioner Doyle said that would go into the section .050 description of the craft cooperatives, where it sets forth they have to be LLCs, LLPs, etc., it would be a cooperative corporation and cooperatives need to be run consistently with the Seven Principles.

Regarding the issue of limiting craft cooperatives to six locations, Commissioner Doyle reported that the Commission received feedback that six locations was too restrictive and would not promote small farming. That feedback is difficult to reconcile with the Commission's inspectional needs. The problem that Commission has is if a craft cooperative has a number of places scattered around the Commonwealth, the Commission might find itself short of adequate inspection staff to cover them. She has a recommendation that correlates with another recommendation for cultivators in general, regarding constraining overproduction, that is instead of restricting the particular number of lots, put a cap on the canopy that craft cultivator cooperatives may have and allow the cooperative to decide how they are going to fill that canopy. The way she thought about that was that the Commission is looking at a smaller business model, similar to the microbusiness, and she was thinking if they were prepared to inspect six lots that were going to be no bigger than potentially 5,000 square feet, there is no constraint on it now, maybe if you put an overall cap of canopy of 30,000 for craft marijuana cooperatives, that would give the farmers more flexibility but hopefully prevent too much production and overburdening the Commission's resources in terms of inspection. There was not much to draw on as a model for this. Oregon puts a 30,000-square-foot limit on its cultivators, but Massachusetts is a more populated state. Oregon also limits it to one license, which is also what the Commission is doing for craft marijuana cooperatives. She wants to open discussion up to the Commission in the hopes someone can bring further perspective to the issue. Chairman Hoffman thanked Commissioner Doyle for her thoughtfulness and asked for comments.

Commissioner Title agreed with Commissioner Doyle. She asked about the citation for cooperative corporations. Commissioner Doyle said it was General Laws chapter 157. Commissioner Title wanted to require that the business plan and bylaws reflect a democratically owned business with equal voting rights among members. Commissioner Doyle said that that requirement is one of the Seven Principles. Chairman Hoffman agreed. Commissioner Title said she thinks it would be a good requirement that one of the owners have a Schedule F; she also thinks 30,000 is about right for the cap. Her concern is if they do want to grow, that they don't want to necessarily stifle them from growing. She would suggest the Commission allows the co-ops to have more than six locations, but impose an additional fee to cover the inspection costs. She leaves it to the Chairman and CFO to determine what the appropriate fee would be. Chairman Hoffman agreed that that makes more sense than putting a cap on, and agrees about the strain on inspectional resources but if the Commission charges incremental fees, they cover that, and they will hire additional staff as needed, covered by the incremental fees. He opposed the caps and recommended just putting additional fees on more than six locations. He would provide a recommendation on the fees tomorrow. Commissioner Title clarified she was not

suggesting they eliminate the square footage cap. Chairman Hoffman asked why. Commissioner Title said it is something she is flexible on, but as Commissioner Doyle said, the point is to encourage small farmers, craft product, so if they were to allow unlimited locations, if you pay a fee, and unlimited square footage, it is ripe for exploitation. Chairman Hoffman said his perspective is he wants to encourage people to have upside and grow and be successful; he does not want to tell people if you are really successful, you've got to stop. He understands the concern but he thinks they have got, based upon the requirements Commissioner Doyle said, in terms of the tiers, the Seven Principles, filing an F1, he thinks they have dealt with some of the possibilities of exploitation, but they should not put a constraint on people's success, unless it creates a problem.

Commissioner Doyle said the one balancing point, and she wants to tap into the Chairman's expertise in this, is the concern for overproduction. Chairman Hoffman agreed. He asked if they could address that the same way they are addressing overproduction for cultivation in general, the issue about the 85%, which was coming up on the agenda. Commissioner Doyle said she'll be asking for a cap on that as well. Chairman Hoffman asked if they can defer the issue about the 30,000 square foot cap. He asked for any additional comments. Commissioner McBride said she concurs with Commissioner Doyle's assessment. Chairman Hoffman asked for Commissioner Doyle to repeat the recommendation, with the input from Commissioner Title. She agreed.

Commissioner Doyle said she recommended, with the input of Commissioner Title, that the Commission would require, instead of any other business structure in addition to LLCs and LLPs, which are statutorily required, that cooperatives be literally a cooperative under Massachusetts law and that one member have filed a Schedule F tax income form within the past five years, to ensure participation by farmers, that the cooperative must be run consistent with the Seven Principles published by the International Cooperative Alliance in 1995, and that there be a total canopy cap at 30,000 square feet, and if they are going to use more than six locations, that an additional fee be imposed to cover the inspectional costs. Chairman Hoffman said the only question then is the 30,000 cap, if they can vote on it and come back to the 30,000-foot cap, they can vote on everything else that was proposed. He asked the other Commissioners if they were OK with that. They agreed. He asked for a motion to approve. Commissioner Doyle made the motion; seconded by Commissioner McBride. The Commission unanimously approved that motion.

Chairman Hoffman said the next topic is requiring staged growth. This is back to the requirement put into the draft regulations about requiring 85% sale before moving to the next tier to prevent overproduction and diversion. He asked Commissioner Doyle to discuss this as well.

Commissioner Doyle said she is going to recommend a couple changes to the draft regulations. She said one suggestion they got is that people be required to produce at the top of their capacity, the way it was written, it was just required that they, before they went to the next tier, they had to sell 85 percent of their product, but it didn't say where in the range they had to be when they sold the 85 percent of their product. The Commission wants them to be producing at the 5,000-square-foot and then selling 85 percent of it before they move up to the next tier, rather than selling 85 percent at the bottom of the range, and saying they want to jump up. Chairman Hoffman agreed and said that falls into technical corrections. Commissioner Doyle agreed, but wanted to make sure everyone understood that. Commissioner Title asked what the concerns are

for overproduction if they are registered for a certain tier, paying for a certain tier, they are making less and selling 85 percent of the lesser amount they are making, what is the problem. Commissioner Doyle said the concern is not allowing them to jump up to another tier. She reminded people what the tiers were. Tier 1 is up to 1,000; Tier 2 is 1,000-5,000; Tier 3 is 5,000-10,000; and Tier 4 is 10,000 and over and they have the ability to go up from there. The commenter pointed out the way we had written it, someone could get a Tier 2 license, be producing only 2,000 square feet and under the regulations, request to jump up to Tier 3 because they had sold 85 percent of that 2,000, without demonstrating they need to go to Tier 3 because they are at the top of their capacity. Commissioner Title said then the following year they would need to sell 85 percent of whatever they were making in Tier 3. Commissioner Doyle clarified she thought the Commission said quarters. Commissioner Title agreed. Executive Director Shawn Collins said six months. Commissioner Title agreed that if they are not at 85% they would bump back down. Chairman Hoffman said he does not think they had language for that. Commissioner Doyle said she had not put that in there but Colorado does that. If you don't reach selling 70% in Colorado, you are bumped back down. She had not included that, but she is open to that discussion. Chairman Hoffman said either way gets to the same issue; either they go with that, or they bump people down if they don't meet the tier requirement. He does not feel strongly either way, as long as one of them is required. Commissioner Title said she prefers people be bumped down if they don't make it, rather than the other way around. Chairman Hoffman compared it to Premiere League Football, where it is called relegation, which he agreed with. He asked other Commissioners for their preference. Commissioner Flanagan said she does not have a preference. Chairman Hoffman said then they are going to introduce language in the regulations that push people back if in six months, if they don't meet the percentage requirement. Commissioner Doyle agreed.

Commissioner Doyle explained that the next issue is in the draft regulations applicants could pick which tier that you want to be in and the Commission allowed the RMDs to be grandfathered. They did get commentary that people should be required to go through the stages, which apparently is what they do in Colorado, everyone starts small. The Cannabis Control Commission's tiers are a lot smaller than Colorado's, so if they were to do that, she would suggest they perhaps allow a higher tier than 1,000 square feet to start to avoid interfering with people's business models. Chairman Hoffman asked what the logic is to require people to start at the bottom. Commissioner Doyle said it is similar to the "walk before you run" principle, if they are literally just trying to get up and running, and make sure you can produce a successful crop at a small scale before you try to do it on a large scale. She said she does not have strong feelings on this but she wanted to raise it.

Chairman Hoffman clarified these are separate issues; one is for new licensees the other is for currently licensed RMDs. Commissioner Doyle agreed: RMDs would be grandfathered in. Chairman Hoffman said it seems like the Nanny State to require people to start under 1,000 square feet. Commissioner Doyle clarified she was not recommending that; if they want to start at the lower tiers that is fine, but even the larger producers should start at Tier 3. That is her thought. If they are going to do that, make it a bigger start, because that lets people start at 10,000 square feet, which is not tiny. Commissioner Title said she agrees with the Chairman that she does not see the logic in that. If they allow people to bump down for not making the

percentage that takes care of the concern for overproduction. Commissioner Doyle asked if everybody is good with that. The Commissioners agreed.

Commissioner Doyle said the third issue is the cap on total canopy per license. This is something that a number of states have struggled with. They received comments recommending various square footage caps. Some seem too big, some seem too little. She looked at it from the point of starting the industry. She thought it might be fair to start with, per licensee – not per license – a 100,000-square-foot cap. She thinks that accommodates most existing RMD applicants but as a safety valve, they would put in, if they were over that, grandfather them to what they put in their Department of Public Health application, and hold it there. This gives existing RMDs who are up and running enough room to accommodate their existing operations; it may constrain them if they want to get additional cultivation licenses, because as they know, under the DPH model, they have one cultivation facility. Under adult use, they would be able to have three. She knows some may have more; she tried to limit to license and 30,000 square feet per license is small. She thinks that would unduly constrain existing people that want to come in, but she thinks if they start from a place where they try to hold a beginning line, and then move that line as the industry matures, the Commission may try to avoid some of the overproduction and resulting problems other states have had. She said she looked at what other states have done; some have backed away from this entirely and Oregon has a 1 license limit of 30,000-square-feet, which just seemed small for Massachusetts.

Chairman Hoffman said he could think of three reasons why they would impose some kind of cap: 1) overproduction and diversion; 2) to not let a few gigantic players dominate the industry; and 3) to avoid what is happened in other states where, even if there is no diversion, the prices just drop precipitously because of oversupply. He thinks they need to discuss which of those three they are trying to accomplish. He personally believes the issue of overproduction and diversion was easily addressed by the relegation they just agreed on: there is not going to be overproduction; there might be for six months, but they are going to force people to lower tiers if they are not selling what they produce. He does not see from a regulatory standpoint a need for caps. He thinks the only reason to put caps on is if the Commission wants to prevent people from dominating the cultivation part of the market, and make sure there is enough room for small players. He thinks the Commission is creating a lot of incentives for small players, they have proved significantly their language with respect to co-ops, so he does not see a need for caps. He knows other states would disagree but that is his personal opinion.

Commissioner Title said for the first time in the history of the Commission, she might be the swing vote because she just does not know how she feels about this. She thinks other states that have done so, either preemptively or as a reactionary measure, they can't take that experience and apply it to Massachusetts because it is so unique in terms of policies, it is the first on the East Coast, at the moment she is more worried about having enough supply in the short term. She thinks she could easily be persuaded otherwise but at the moment, her gut is saying no cap but perhaps they give themselves in the interest of crawling before they walk and walking before they run, the Commission gives itself a date at which they would evaluate and consider putting a cap in the future, perhaps in a year, but at this point, she does not see any evidence or need to do that. Commissioner Doyle said she has a question from a business-building perspective. If you are trying to put together a business, is it better to know now, or later that there might be a cap.

The problem is the Commission needs more information. Chairman Hoffman said a generic point on business is the more certainty you have, the better off you are. Uncertainty is unpleasant; it is better to know, it just makes planning that much easier. That is a high-level generality, but he thinks it is true and should govern the Commission in their thinking here. He is not sure if he agrees with Commissioner Title about setting a timeline, but he believes they should reassess – that is true of pretty much every regulation they are writing, that they are going to see how this market evolves and decide they are going to need to tweak some regulations based upon the experience in the real world and this is absolutely one that they’ll look at and see how it works out and they can change. But the Chairman does not know that he has the ability to put a timeline on when they are going to know or not make this change, but they are going to look and assess and decide as the market evolves. Again, his recommendation is that there is no cap, but that the Commission will look at it and make a change if it is appropriate and necessary at the appropriate time.

Commissioner McBride said she agrees with Commissioner Doyle on this and her recommendation. The Chairman just said the reason why; having some level of certainty to come back and decide if we need to lift that, she thinks makes sense and strikes the right balance about the Commission being prepared. She thinks the cap being suggested is fairly right-sized for the market here, and she would welcome and invite individuals – if that cap is in place and we see the cap is not working – to come to the Commission and share that information. At this point, she would be supportive of the cap Commissioner Doyle suggests. Commissioner Doyle added, as Commissioner Title was suggesting, the Commission does know they are reopening the regulations in February, it may be something they could get additional information on before it gets too far down the road. Chairman Hoffman said he does not know if that will be enough time to get more information on this, given the timelines for cultivation and selling requirements, he feels badly about committing to that timeline. He is more than happy to commit to reevaluation but he is not sure about the timeline.

Commissioner Flanagan said she is torn between the conversation on listening to people tell the Commission they are not going to have enough product in the beginning, and then wondering how much product there is going to be later on, that she is comfortable with the cap. She would also be comfortable with a sunset timeline. However, she thinks in trying to help the farmers overall, that this is a balance. She agrees with Commissioner Doyle. They are trying to help create their business plans and plan for the future, but at the same time, diversion makes her nervous in any respect, she thinks it is so easily attainable, that the cap makes sense.

Commissioner McBride added that 100,000 square feet is big. Entities producing 100,000 square feet are going to be very large entities. She thinks trying to create a market place, as they have tried to do, that allows for all levels of players to be involved, she thinks that is reasonable. Chairman Hoffman clarified that they are saying a co-op is one license, so no matter how many locations they have, if they put the cap on it, it would be 30,000 per co-op. Commissioner Doyle agreed, so it is smaller definitely, than what they are saying a licensee that would be as a marijuana cultivator, so if you are in agriculture and deciding between the two business structures, that is the decision point because the co-op would be limited to 30,000. Chairman Hoffman clarified a marijuana cultivator you would require them to get three separate licenses. Commissioner Doyle agreed; with separate licenses you could get to that 100,000 if you wanted to. Chairman Hoffman asked for the existing medical licenses, does Commissioner Doyle know

what the range is for the caps they are currently operating under through DPH regulations. Commissioner Doyle said she has been gone from DPH for a while but she believes this would be consistent and accommodate their existing footprint and allow most of them some opportunity for controlled growth, but that is why she added that grandfathered clause, in case she is incorrect or if there is someone who came into the DPH system after she left. Commissioner Title commented on 1 million-square-foot facilities have been proposed. Commissioner Doyle said that was one that was discussed in a letter, but she believes their business model is not they themselves intend to develop that entire million-square-foot to operate as a facility themselves, they intend to sublease parts of it, and they run the facility and allow people to sublease. Chairman Hoffman asked if there would be other licenses. Commissioner Doyle agreed, she does not think it is intended to be a 1 million-square foot space. Commissioner Title said she is certainly not advocating for that. She said in terms of thinking about what is considered big, what is considered small, that is a fair point. She does not think she is comfortable with setting a limit and then grandfathering in existing facilities; she suggests if no one knows off the top of their head, that they check and see what the largest one is and set the limit there, so they don't have to grandfather anybody in. Chairman Hoffman said he agrees with that. Commissioner Doyle said she could get that information by next week with any luck. Chairman Hoffman said we can add that number, but conceptually they can agree on it today. He thinks that is a good suggestion.

Commissioner Title said in terms of the co-op, now 100,000 seems small. She asked about capping the individual location size to 5,000 but not capping how many locations there would be to prevent a giant location, but not to inhibit their growth. Commissioner Doyle said then they are getting back to an overproduction issue essentially, but it is one of those things where you could read for a year different economic treaties. Commissioner Title agreed, but the Commission would still have the same checks in place where it has to be member owned and controlled and relegation. They should impose the same standards on co-ops. Chairman Hoffman agreed. He said what is on the table is conceptually saying they will allow individual licensees to have 100,000 total square footage. Chairman Hoffman clarified they would put the max in and make it per licensee, so that can include multiple licenses but it is per licensee, whatever the maximum is currently cultivated by an existing medical producer. Commissioner Title asked Commissioner Doyle if she meant licensee. Commissioner Doyle agreed. Should the Commission do 100,000, or if it is larger, then they do the RMD max, then they get both concepts, but should they do per license or per licensee. Commissioner Title said thinking about the number, per license actually makes more sense, because if they have three locations, each one is one-third of 100,000, that is not that big. Commissioner Doyle said the reason she had done that is because she thinks are spaces leased out there, and she was trying to limit how fast everybody tries to grow to try and not necessarily stop, but at least slow down the supersizing that seems to tend to happen these days; where someone builds out something enormous and drops the price precipitously. Chairman Hoffman said that is the point of relegation. He thinks that will be effective. It might create some short-term issues, but he does think the Commission can manage the overall supply by ensuring people that don't meet those targets get ratcheted back to the lower level. He is now proposing to say 100,000-square-foot per license, or the largest existing RMD. Commissioner Title said to clarify one more time, she does not have strong feelings about whether it is per license or per licensee – she does want to make sure they are setting the maximum at what it currently is, she wants to make sure someone that is already operating or

trying to build out at this point, that they are not trying to stunt them in any way. Chairman Hoffman agreed and asked Executive Director Collins for his thoughts.

Executive Director Collins said he can hear in the conversation as far as 100,000-square-foot per license is a big facility, and nationally it would be considered large, but there is also the likelihood that someone have a 100,000 square foot facility with just one license; they would have the ability to have three licenses, but he does not know the likelihood of that. You always have as the backstop of relegation to a smaller tier, so it seems they have moved passed the conversation altogether, but setting a cap altogether standpoint, the logic there from a business standpoint he thinks would be setting a cap today, whereas if someone builds out a 200,00-square-foot facility and the Commission decides next year to cap that at 100,000-square-foot, they have made all of that investment and it would then be difficult to ratchet back. Chairman Hoffman agreed. Executive Director Collins said a 100,000-square-foot facility is significant, from a production standpoint. That said, a 30,000-square-foot facility may not be significant. By and large a 50,000-60,000-square-foot facility might be the average nationally, but that is kind of a fluid metric.

Commissioner Title said she can put something on the table; if they check with DPH and public record and find a license with a bigger square foot let's say for license, it will be large, but this is as cap and we are making all kinds of measures to ensure businesses of different sizes, what if they start there. Chairman Hoffman asked what the implication would be for co-ops. Commissioner Title suggested setting the co-op at the same amount. Chairman Hoffman clarified that she meant not set a cap on locations, but charge additional fees when there is more than six locations. Commissioner Doyle said that seems fair. Chairman Hoffman said he would like to vote on that and understand what the current max was, so could they look into that and get back after lunch. Commissioner Doyle agreed. Chairman Hoffman said they would table the issue and hopefully have the language to come right back to it after lunch.

Chairman Hoffman said the next question is should the Commission license people to have the ability to sell seeds and clones. He presumes the license would be to sell seeds and clones to other Marijuana Establishments, but particularly other cultivators. Commissioner Doyle said she thought that was already subsumed in the Marijuana Cultivator license herself, but enough people seem confused about it that they need to clarify that. Commissioner Title asked about selling seeds and clones to consumers. Chairman Hoffman said he thinks that is a separate conversation. Right now, the big question on the table right now is do the current regulations allow for people to get a cultivation license to sell seeds and clones to cultivators or other Marijuana Establishments. His assumption is that is covered by current regulations, that they do not need to modify their regulations. If that is the intent, they can relegate that to next week's discussion as a technical issue, unless there is anybody who does not believe that was the intent. Commissioner Doyle said that was her intent. Chairman Hoffman said then they will relegate that to next week.

Chairman Hoffman asked Commissioner Title to proceed with her question, which is the Commission authorizing the sale of seeds and clones to end users. He does not think that was the intent of the current draft regulations. Commissioner Title said she thinks there are consumers who wish to take advantage of the home growing provision in the law, that would appreciate the

opportunity to purchase seeds or clones. Chairman Hoffman asked if that would be directly from a cultivator or through retail sale. Commissioner Title said either one. Commissioner Flanagan asked if they can do a retail store, or is that where the federal government has gotten involved with nurseries. Commissioner Title said she thinks they need a discussion. Commissioner Flanagan said was worried about the Department of Agriculture, that would be her only question. Commissioner Title said the law and the regulation definition of marijuana includes the seeds and the plants, and they have referred to that several times. Chairman Hoffman said he does not have any problem with retail, the more difficult question is if it can be sold direct from the cultivator to the consumer. It seems it might be a non-issue if it is already defined as product, and the Commission already authorized retail sales. Commissioner Title said she would only recommend they clarify both issues because they did get a lot of questions about that. Chairman Hoffman agreed to include them as technical corrections. Commissioner Doyle said the other thing they would need to sort out about that is testing of seeds, because she did not know whether it was possible. Executive Director Collins said he was thinking the same thing as far as packaging, labeling, etc. at the retail level. Commissioner Doyle agreed. Chairman Hoffman said they will work on that and put it in the technical fix category. Executive Director Collins clarified that selling to consumers would require a retail license. Chairman Hoffman agreed and it would have to be brick and mortar, as was decided yesterday.

Chairman Hoffman asked if they should discuss environmental issues now. Commissioner Doyle said after lunch or perhaps tomorrow morning. To update the room, she said the Commission got more help from the Executive Office of Energy and Environmental Affairs as far as understanding their questions for them, and the answers are quite dense, so they need more time to understand them. Chairman Hoffman said they'll come back.

Commissioner Title asked if they could go back to seeds and clones for a second. She got feedback from farmers and consumers that the Commission's requirement that the leaves and flowers as processed shall be "well cured and free of seeds and stems" that there are certain strains that are seeded, and this is a strain that people prefer. She said there is no "free of seeds" language in the statute. She would propose they add an exception. Chairman Hoffman asked for clarification. Commissioner Doyle said it is under the cultivation operational requirements. Commissioner Title agreed, she said it is under "Requirements for the Handling of Marijuana: A Marijuana Establishment authorized to process marijuana shall do so in a safe and sanitary manner. A Marijuana Establishment shall process the leaves and flowers of the female marijuana plant only, which shall be well cured and free of seeds and stems." Chairman Hoffman suggested they wait to get into that when they talk about operational requirements. Commissioner Title agreed.

Chairman Hoffman said they will leave the environmental standards until after lunch or tomorrow morning. They have talked about adding requirements to the designation as a co-op, asked for anything else in that category. Commissioner Doyle said not off the top of her head. Chairman Hoffman said he need clarification on the next subject: provide a waiver process for small farmers. Commissioner Doyle said that sticks to the concern with regard to security and the environmental requirements suggested by EEA. Chairman Hoffman asked if they should could back to that when they discuss operational requirements. Commissioner Doyle agreed.

Chairman Hoffman said with the exception of the things they just heard, he thinks they are done with cultivation. He said with regard to fees and fines, there is still more work to be done related to that. He pointed to a slide with the table in the current draft regulations with two changes: he took out the categories of licenses they agreed not to authorize – social consumption or delivery services – and based upon the request of Commissioner Title and input the Commission received, he proposed a modification for cultivation fees. He said on the slide, to the left of the slash for both application and annual licensing fees, are the numbers currently in the draft regulations, and to the right of the slash, is a proposal that they reduce those fees by 50% for outdoor cultivators. He recognizes, unlike California, where the fees for indoor cultivation can be in the tens of thousands of dollars, and are dramatically lower for outdoor cultivation, these differences are not anywhere near as significant, and perhaps they can be accused of being symbolic here. He thinks for farmers, even small differences are impactful, so he his proposal for consideration by the Commission is that they adopt reducing the fees by 50% for outdoor cultivation for all levels and all tiers. He assured the Commission that economically this will not have an impact in terms of their budget and operations. He asked for Commissioners’ thoughts. Commissioner Doyle said this may serve to incentivize outdoor cultivation, which may be a good thing from the environmental perspective. The Chairman said he needs to do the math tonight and they can defer this until tomorrow morning. He asked about any conceptual concerns with this before they get into the specifics of the numbers. Other than that, he is not proposing any other changes to fees besides eliminating some categories based upon their conversation yesterday.

Chairman Hoffman said the next topic deals with RMDs. They talked about two categories of priority applications – one being Economic Empowerment, they talked about that yesterday – the other is RMDs. There are several issues he thinks are really important. One is ensuring of adequate supply to medical patients after conversion. The second issue is in the draft regulations, the prioritization for RMDs included those provisionally licensed – not just those with final licenses. He asked Commissioner Doyle if he was correct in saying that amounts to 135 in total. Commissioner Doyle said it is something along those lines. Chairman Hoffman said right now the issue is the Commission agrees prioritization will extend to provisional licenses. There has been comment that that the prioritization should be final licenses only. The one he is most confused about what to do in communities that currently have an operating medical dispensary, that either have enacted a moratoria or ban on retail, allowing for the conversion of medical marijuana, so the addition of retail to the currently operating medical facility and asked what are the rights of towns in that circumstance. He asked if there are other issues.

Commissioners Doyle said they originally put something in the application section of the regulations to allow applicants to say how they were going to preserve the medical patient supply and they got tremendous comment that they need to set something more specific. She said the recommendation back from the advisory board had been 30% if she remembered correctly. She proposed they take that and make it the percentage that if RMDs are adding adult use to their services, they should have a 30% reserve for medical patients. Chairman Hoffman asked her to clarify 30% of what. She said it is 30% of marijuana and marijuana products, respectively. She said they can get into the language, but conceptually 30%. Commissioner McBride agreed. The clarifying language should make sure it is the right balance in terms of what is being preserved and serving the patient population that the RMD has served. In other words, if the need is more,

10% of that to be in a specific kind of edible product provided, we should make sure when it is 30%, that that proportion is right. The idea here is to ensure continuity of service and what patients need. It shouldn't just be that you are preserving 30% and it is whatever you decide you decide is not going to be practical on the recreational market. Commissioner Title thanked Commissioner Doyle for putting that forward; she recalls that it was not the advisory board making that recommendation, but some individual members did. Either way, she supports it. The other way she heard it suggested is that existing dispensaries look at, based on past sales, it would be required. Commissioner Doyle said that is a good idea and something she tried to implement after trying to write it a number of different times it was so hard to articulate what the thought was. The thought was to give RMDs an opportunity to look back at what their sales were and give them the opportunity to use those numbers. She found it difficult to write, therefore she is concerned it would be difficult to implement, so she decided to go with something simple and understandable, which is the clean percentage. Commissioner Title said she supports that. She was interpreting they would look at certain number of past six months, take the average of what was being sold to patients, and reserve that amount for consistency. Commissioner Doyle said the original idea was the 30% and the other number, whichever is lesser. Chairman Hoffman said he likes the idea of basing it on reality versus 30%. Commissioner McBride said she was willing to take a shot at drafting it with Commissioner Title's input.

Chairman Hoffman said he presumes that the fines for violations are per the fine schedule. Commissioner Doyle agreed. Chairman Hoffman said they might want to modify the fines, because this is an important social welfare and health issue. He wonders if it is worth considering increasing the fines for this specific violation. Commissioner Doyle asked if he meant beyond \$25,000. He said he wanted to put it on the table if the supply is not maintained. Commissioner Title said each violation would be defined as, if it is done per transaction, to an adult use customer, that would add up pretty fast. Chairman Hoffman said his point is less about raising the fines, and more about clarity about what is the circumstance that would engender a fine. He is concerned about enforceability here and strong disincentives. Commissioner McBride said they will have to write their way into it to figure out the right way to test it. She would suggest there is going to have to be a record under tracking; the Commission is going to have those records, but the Commission should make it incumbent on the licensee to maintain the adequate record, and then the inspectional staff will be tasked with an audit of the numbers. The Commission is going to want to be able to backtrack. Commissioner McBride said this is all very amorphous, but that would be the general idea that there is going to be something that is going to be followed up by staff in terms of testing it. Chairman Hoffman agreed. He asked about the frequency of the audit. Commissioner Flanagan said she is all about fines and holding people accountable in the industry, but if they keep going back to they are not sure they are going to have enough product in the beginning, then having more audits might be more beneficial than fines. She thinks they have heard the RMDs are going to be the ones up and running first, producing what the Commission needs if they don't do cultivation earlier. She asked if the Commission should put them on the hook for additional fines when they are trying to serve everyone. She suggested holding more audits to make sure they are doing what they are supposed to be doing. Commissioner McBride agreed and said the whole point is the Commission does not want to be leaving patients without supply. Chairman Hoffman said conceptually he is completely on board; he wants to make sure there is enforceability and strong incentives, but he also does not want to create unintentional disincentives. He is happy to defer to

Commissioner McBride and Commissioner Title and react to what they come up with in a draft, but philosophically they are aligned. Commissioner Title said she thinks it is worth considering. Her general leaning is towards keeping records on site and having inspections and audits; less paperwork for the Commission needing to require proactive documentation, but she thinks this is important enough in short-term, and a fewer number of licensees thought it might worth the Commission requiring proactive documentation saying, either “I chose 30%” or “I chose to do the math, here’s my documentation and I’m in line with this.” Commissioner Flanagan said they should why they determined the path that they chose. Chairman Hoffman said they can defer this until the final regulation review next week.

Executive Director Collins suggested the Commission vote on the 30% language. Chairman Hoffman asked Commissioner McBride to repeat the language for the vote. Commissioner McBride said the motion would be for the Commission to adopt a requirement that RMDs maintain an adequate patient supply of 30% or a six-month supply with adequate distribution, representative of actual sales over the prior six months, whichever is less. Commissioner Title asked what the rationale is for “whichever is less” versus “whichever is more.” Commissioner Doyle said this might be an incorrect presumption but six months might be quite high, so she was trying to give some flexibility. Commissioner Title said instead of doing whichever is less or whichever is more, to let them pick, in case the person didn’t want to do the math, they could just choose the 30% for simplicity. Commissioner Hoffman said now that he is thinking about it, why would not it just be based on the last 6 months’ sales, and take out the 30% piece, because they want to ensure there is availability for the patients they have served up to the point they add the retail license. He does not believe it is an onerous requirement to track your sales. That is business 101, and if you track your sales, it is not that onerous to say, “OK, this is what I sold over the last six months to medical patients, and I’m going to reserve that amount.” Commissioner Title said she was trying to be thoughtful about Commissioner Doyle’s point that this could be unworkable. Chairman Hoffman said then they can put this back in Commissioner Title and McBride’s hands. Commissioner Flanagan asked how much six months’ sales fluctuate. Her fear is if there are significant spikes and lows, you get a low, you won’t have as much product, if there is a spike, you’ll have more than enough, but she does not know enough about the supply to know if there would be a big difference if they are looking six months back. Commissioner Title said she and Commissioner McBride could look into that. The point of that number was to take an average in case there was an outlying month. Executive Director Collins added it will be taken on an ongoing basis, so if they only have two months of actual sales – Chairman Hoffman said then they would use the 30% for those situations. He asked for a motion to approve the concept Commissioner McBride just articulated. Commissioner Doyle made the motion; seconded by Commissioner Flanagan. The Commission unanimously approved the motion.

Chairman Hoffman said the next topic with respect to RMD applications is that prioritization for all licenses, including provisional licenses, or only those that have final licenses. Again, if he is correct, the draft regulations included all licenses including provisional licenses. There has been comments on that. He asked the Commission for thoughts. Commissioner McBride said Section 56 of Chapter 55, states, “The Massachusetts cannabis control commission shall prioritize review and licensing decisions for applicants for retail, manufacture or cultivation licenses who: (i) are registered marijuana dispensaries with a final or a provisional certificate of registration.” He

thanked Commissioner McBride for pointing that out. He said he is going to propose a municipality section later where they discuss what do they do in those instances where existing medical dispensaries in towns that have bans or placed a moratorium on retail, he is foreseeing multiple municipality issues. They can get to it then, or get to it now. He asked for Commissioner Doyle's suggestion. She said she is wondering how it plays into the regulations. It is a separate discussion that the Commission needs to have. Chairman Hoffman said do they license and RMD operating in a town with a retail ban or moratorium. That is why it seemed to him that it belonged in this section. He thinks it is a very important issue. Commissioner Doyle said to put a pin in the issue for now. Chairman Hoffman agreed as long as they take the pin out at some point.

Chairman Hoffman said the Commission is now in section .101 which is licensing and application requirements. Yesterday they agreed to modify the definition for areas of disproportionate impact, and included race in the criteria. The next topic is background checks and the option is to add to required information a list of past or present businesses operated in other jurisdictions or states. Commissioner McBride said she views this as something that makes sense to have, because they are asking for information and are making decisions based on if there were violations in a professional context in other jurisdictions, it makes sense for the Commission to find out from applicants what business they are involved in in other jurisdictions. Chairman Hoffman asked if that is a technical change or something that needs a vote. Commissioner McBride said it is adding a substantive requirement to the regulations so they should probably vote on it. Chairman Hoffman asked for a motion to approve. Commissioner Title made the motion to approve, seconded by Commissioner Doyle. The Commission approved the change unanimously.

Chairman Hoffman moved on to the Conflict of Interest requirement or disclosure requirement. Commissioner McBride said they talked about this yesterday when they were talking about the three license limit. This is an effort to find out from the applicant at the outset what are their interests and what other businesses are they involved so they can make sure when reviewing the applications that they are ensuring that they comply with the limit. Chairman Hoffman asked for comments. Commissioner McBride added they talked about the consultant role, so the regulations can be drafted to account for that.

Chairman Hoffman said in section .102, Action on Applications, there are some topics with respect to access and supplemental materials. Commissioner McBride said this is to clarify and make sure the Commission is including language that if a packet is submitted to them, and they are going through the process of reviewing it, notifying the applicant that the Commission has completed that packet, but then before the license issues, if there is a need by the applicant to go back in and modify something – maybe someone has left the business – that that modification may result in the Commission having to review the packet. It is a notice requirement. Chairman Hoffman said that is clarification of language, correct. He asked for any objections to that. There were none. Commissioner Title asked if the Commission could take a brief break. They agreed to break for 10 minutes.

Commissioner McBride asked for a vote on a Conflict of Interest proposal. Chairman Hoffman agreed and asked for someone to articulate the proposal. Executive Director Collins said the

recommendation was as part of the application process for disclosure of any conflict of interest, which would include any ownership of interest by an individual who was included on a license application with any other marijuana establishment. Chairman Hoffman asked for a motion to approve. Commissioner Doyle made the motion; seconded by Commissioner McBride. The motion was approved unanimously.

Chairman Hoffman moved on to the topic of supplemental materials. Commissioner McBride said this was just a clarifying point. Some individuals who sent in comments had expressed confusion over what this provision meant. The intent of the provision is when the Commission reviews an application and determines additional information is needed, the Commission will reach out to the applicant to say submit additional information within a certain time period. It is clarifying in order to expedite the process of reviewing the application making sure that we are working along on a good timeline. Chairman Hoffman asked if this is just clarifying language in the regulations. Commissioner McBride agreed. Chairman Hoffman said they will review that next week.

Chairman Hoffman asked if the next issue is the same way: “ceases to operate.” Commissioner Doyle said she put that in there. The Commission got a couple comments that said “ceases to operate” needed to be clarified. She proposed it be something along the lines of – and they can work on the language – of a closure of 60 days with no intent to reopen. Chairman Hoffman said intent is hard to improve. Commissioner Doyle said they will work on the language but there is no opportunity to reopen one way or the other, whether it is a closure that is being forced on them or a decision of their own to close, they have to make sure they are not accidentally capturing people who are engaged in extended renovations. Chairman Hoffman asked if it was clarifying language for next week. Commissioner Doyle agreed.

Chairman Hoffman moved on to .105 Operational Requirements. He said these may be relatively complex but the sequence starts with marketing requirements, including banning the leaf or marijuana symbol or colloquial references, pricing and advertising in response to phone calls, and coupons or loyalty programs. Commissioner Flanagan said there was a lot of conversation about whether they were going to allow the marijuana leaf to be part of marketing. She still stands by the fact that she does not think it should be. Commissioner Doyle said in the regulations they agreed it would not be. Chairman Hoffman clarified this conversation was about whether to reopen the issue. Commissioner Title said she wanted to know what the primary argument for it was to be reconsidered. Commissioner Doyle said she didn’t put this in here, but someone wrote a long eloquent argument against having any marijuana leaf in any kind of advertising, but that is already in. Chairman Hoffman agreed, it is already prohibited in the current draft regulations. Commissioner Doyle said use of “medical symbols or images of cannabis,” which to her is the leaf unless someone thinks that is confusing. Commissioner Title said since somebody thought to bring it up, she thinks it is ridiculous to ban marijuana use on marijuana products, particularly when they talk about symbols that are supposed to keep a person from accidentally ingesting it, being able to see a marijuana leaf when everybody knows what that is, is very intuitive to her, versus a random universal symbol that is not actually universal among different states, so if the Commission is reconsidering this, she suggests they not ban marijuana leaves. Commissioner Flanagan said she stands by the fact that she does not want them used. Chairman Hoffman said no motion is needed if they are going to leave the regulation

as is, but they can have a vote on whether to change this. Commissioner Doyle said she would rather keep it the way it is, maybe there will be a change when the market matures. Chairman Hoffman asked for a motion to maintain the prohibition on the use of the marijuana leaf. Commissioner Doyle made the motion; seconded by Commissioner Flanagan. The Commission unanimously approved the motion to keep the language as is in the current draft regulations.

Chairman Hoffman moved on to prices in the draft regulations. He said the Commission does not allow advertising with respect to prices. There was comments about whether prices should be posted in stores and whether employees would be able to answer questions by phone. He recommended being more explicit about where and if pricing information can be distributed and discussed. Commissioner Doyle said she is in favor of allowing employees of Marijuana Establishments to answer questions over the phone, for patient safety and consumer safety, that is important, so if that needs to be clarified. She does want to make sure the Commission drafts language in a way that the consumer is reaching out to the establishment, rather than vice versa. She does not want it to be a loophole for telemarketing. Chairman Hoffman asked what about posting in stores. Commissioner Doyle said they are already allowed to have a list; the way it reads now is it is a list on the counter kind of thing. She does not know if it makes a difference once you are in the store, and you have property security measures to make sure only the people who are authorized to be there are there, she does not have a strong feeling about on the wall as opposed to on the counter. Chairman Hoffman thinks they should be explicit about that. Commissioner Flanagan said she does not have a problem with that once you are inside the facility. Commissioner Title asked about allowing prices to be posted on the website – that is prohibited at the moment. Commissioner Doyle said she thought it was permitted on the website; you cannot do unsolicited pop-up advertisements. Commissioner Title said if that is allowed, she is fine. Chairman Hoffman said this is clarifying language, they are not changing anything, so they can push this off until next week. Commissioner Doyle said with regard to the issue of coupons and discounting, she is concerned about the use of social media and pushing out that information. Chairman Hoffman with respect pricing availability, they have not changed anything. With regards to advertising, they are allowing responding to inbound questions and posting within a retail establishment and on a website as opposed to a pop-up. Commissioner Doyle said in the regulations now it prohibits the use of unsolicited pop-up advertisements on the Internet. The Commission had received requests as part of the public comments from RMDs to be allowed to do sort of promotional efforts like coupons and discounts. Chairman Hoffman said he thought the Commission banned that, or was it not addressed in the draft regulations. Commissioner Doyle said she thought it was banned. Commissioner McBride agreed. Chairman Hoffman asked if there was any interest in reopening that conversation. Commissioner Title said she supported it then, and continues to support it. They should be treated like any other business that is advertising to people over 21. Commissioner Doyle said her only concern with social media is it is hard to contain. Unlike websites where they can ask people to affirm their age, when you go on social media, that message gets pushed out and even the most well-meaning business owner does not have control over how it gets shared. Commissioner Title said as a practical matter, those types of advertisements are banned by social media sites anyway, so she is fine with letting that go. Chairman Hoffman clarified that there are no changes to the draft regulations. Executive Director Collins asked if, in the context of that, they wanted to add social media to clarify that, since social media is part of the Internet. Commissioner Doyle said they could put a note to next week

in terms of making the language more clear in terms of scope. Commissioner Flanagan added that they should also consider the word “mobile.” They had that problem with online gaming, using the Internet versus mobile. Executive Director Collins agreed. Chairman Hoffman said that will be part of next week’s agenda.

Commissioner Title said if they are going back and specifying social media, that should warrant further discussion. Certainly there are ways that you can control, depending on what app or website, to control who your audience is, so she does not think they need to go out of their way to ban anything further than they already have. Commissioner Flanagan said they had addressed that apps were fine because you have to have age verification to get into the apps, in terms of the push notifications or unsolicited advertising. Commissioner Title said she wanted to clarify what is on the table. They are clarifying the prohibition of pop up advertisements on websites and social media. Commissioner Doyle said the thing she is specifically concerned about is that some businesses have Facebook pages or Instagram and they’ll post something about pricing or a discount, and she is not sure how they are verifying age. If someone shares the post from their website, that is the thing she is trying to control a little bit because social media tends to be used by younger audiences and she is concerned about that proliferation through social media. Commissioner Title said they need to balance this with the way alcohol businesses or any similar businesses are treated. They are allowed to use social media, but in a way that does not target youth. She thinks there are more refined or targeted ways they can get to that than just banning advertising on social media. Commissioner Doyle said then maybe that is something they need to look at further as part of public health. Executive Director Collins said there is a general statutory prohibition on advertising, and it delineates the methods or means by television, radio, internet, or other electronic advertising, billboard or other outdoor advertising, print publications – unless at least 85% of the audience is reasonably expected to be 21 years of age or older, as determined by reliable, up-to-date audience composition data. So, that exists already in the regulations and he thinks that might capture sharing to an audience that is by and large younger. Chairman Hoffman asked if the Commissioners were satisfied. They agreed. He repeated that this is clarifying language that does not require a vote.

Chairman Hoffman said the Commission received comment that all of their marketing requirements should mirror alcohol. Commissioner Flanagan said she stands by the recommendations she had back in December. She thinks a majority of the requirements they put into the regulations were mandated by statute in Chapter 55. She has concerns about youth and she understands these are businesses for adult use. Certainly there are many of the Alcoholic Beverages Control Commission’s recommendations in Chapter 55.

Chairman Hoffman introduced labeling and several pieces of feedback the Commission received that information should be on the package, so an insert would be an acceptable alternative. Commissioner Doyle said she is trying to envision what they are talking about. When they say insert, is it sort of like when you get a prescription and they have that stapled to the bag? Commissioner McBride said she thinks this is a fair comment. She feels very strongly that they need to include the information they put in these regulations. She is open to exploring the ways they do it, whether it is strictly on the package, or a peel back, or on an insert. She thinks it is really important, whatever they decide, that the information they determine should be on there, that it gets to the consumer. She is open to ways to approach that understanding they want to

make it workable. Chairman Hoffman said the other suggestion in that context that he heard was that on the bag, in some cases just being practical to put it on the product itself or even as an insert depending on size and other complexities, so if there was a bag that is required to be carried out from the retail establishment, they require it to be on the bag, similar to pharmaceuticals. Commissioner McBride clarified similar to the pharmaceutical paper bag. Chairman Hoffman agreed. Commissioner McBride said she is open to that discussion as long as it is something that does have to be attached in a way. She does not want it to be something free in the bag that you crumple up and throw away. The whole point is particularly if you are a new consumer, you have that information and you are able to access it. Chairman Hoffman agreed. He asked if they could agree on the concept and be flexible in terms of location as long as it is physically adhered in one way or shape of the product. He asked for a motion to approve that. Commissioner Doyle made the motion; Commissioner Flanagan seconded. The Commission approve the motion unanimously.

Chairman Hoffman said the second labeling issue is streamlining labels and adding an edible warning. Commissioner Title said that was her suggestion in line with Commissioner McBride's concerns. In terms of streamlining the labels, she is fine with leaving that up to the experience of businesses themselves working with the consumers, and given the vote they just had, that addresses her concern which is she wants to make sure when they put in all the different labeling requirements, that the ones that are most important for the consumer to see are upfront. One thing she thinks was an unintentional error on their part, was that if they look at the marketing and advertising requirements, among the warnings, in the middle is a statement, "The intoxicating effects of edible products may be delayed by two hours or more," but that is not in the labeling requirements and she thinks that is probably the most important one, so she suggests moving that to labeling requirements. Chairman Hoffman agreed. Commissioner McBride asked her to repeat that. Commissioner Title said she would actually suggest "the impairment effects," so it would say, "the impairment effects of edible products may be delayed by two hours or more." Chairman Hoffman clarified that Commissioner Title is recommending that would be on the label. Commissioner Title agreed, on all edible products. Chairman Hoffman asked for a motion to approve. Commissioner Flanagan made the motion; seconded by Commissioner Doyle. The Commission unanimously approved the motion.

Chairman Hoffman said the next labeling issue was adding a 9-1-1 warning to the DPH warning. Commissioner Doyle said that was a request by Chief Carmichael. As it currently reads, it says in part, "In case of accidental ingestion, contact the poison control hotline 1-800-222-1222," and he just requested that it either be replaced with 9-1-1, and she checked with DPH, who preferred poison control remain in there, and make it "or 9-1-1" at the end of that. Commissioner Flanagan agreed with "or." Commissioner Doyle said DPH owns this, as it is their warning, so she would like to go with their recommendation. Commissioner Title said Representative Cusack's letter, or one of the other letter's they got, that suggested the Commission not include the poison control number because they were concerned with clogging up the line. She would defer to DPH. Chairman Hoffman said the motion was to add "or 9-1-1" to the poison control message on labeling. Commissioner Doyle made the motion to approve; seconded by Commissioner McBride. The Commission unanimously approved the motion.

Chairman Hoffman moved on to the 5 mg portion size and explained that there had been comments that suggested 10 mg per portion is a more reasonable limit. He asked if any Commissioners wanted to reopen the discussion. The Commissioners said they were good with it. Chairman Hoffman said they will leave it as is.

Chairman Hoffman moved on to inventory transfer. The Commission talked about part of this issue but there was a technical issue. Commissioner Doyle asked to defer that discussion until tomorrow. Chairman Hoffman agreed based upon getting some guidance from DPH. Commissioner Doyle said they need to make sure they have everything so it works out legally on both sides.

Chairman Hoffman said with respect to transportation between marijuana establishments, the current draft regulations require two agents in each transportation vehicle. They received some comment about that being an onerous requirement. He said he was the one who made that recommendation in December and does not feel he is changed his opinion on that. He opened it to discussion. Commissioner McBride said she concurred. Commissioner Flanagan also agreed. Commissioner Title said she felt this in the first round, too: she feels it is repetitive to have a \$3,000 limit, and lockboxes required, and two agents. Chairman Hoffman clarified the \$3,000 limit was with respect to delivery, and they are no longer authorizing delivery. There is not that constraint with respect to transportation between two marijuana enterprises. Commissioner Doyle added when they get down to lockboxes, she wants to suggest adding language similar to what Commissioner McBride put in the security requirements; if there is an alternate safeguard to having separate lockboxes for different establishments in the van, that the Commission give them that opportunity because some pushed back and said they have a way of separating them that is safe that does not require separate compartments. Chairman Hoffman said so they are going to leave the two-person requirement for transportation. He asked for clarification on the next issue regarding sanitary requirements within transportation.

Commissioner Doyle said this was a request from DPH correctly identifying that if the Commission were going to be allowing people to transport foods that are time-temperature sensitive, also known as potentially hazardous foods – foods that require refrigeration in some way or other controls over how long and under what conditions they are stored – that those restrictions be passed into transportation. In other words, you can't require something to be kept refrigerated in a building, and then that restriction come off after when it is going to be on a truck for three hours, because the product will deteriorate. DPH recommended they put limits on making sure food is kept in a safe way while it is being transported. Chairman Hoffman said that strikes him as being a little bit complicated to write in regulation. Commissioner Doyle said she thinks it can be done and food safety is an important enough issue that she is willing to take a try. Chairman Hoffman agreed. He said the proposal on the table is to draft regulations for next week to require similar sanitary requirements for – he asked if it is for edibles specifically. Commissioner Doyle said it will tend to be mostly edibles; she can obviously check in with DPH and see if transfers to any other type of food, but anything that is not shelf-stable. Commissioner McBride asked if an example of the requirement would be to use a cooler; she asked whether they are talking about a refrigerated truck. Commissioner Doyle said she hopes not. There are federal requirements and she did have to deal with this issue in a non-marijuana sense at DPH so she is hopeful she can figure this out. Chairman Hoffman said this is requiring similar sanitary

requirements in transport that they do for storage in a marijuana establishment. Commissioner Doyle agreed. Commissioner Title said she had a question: an establishment could choose not to work those types of foods, right. Commissioner Doyle agreed, it is a business choice about whether carrying a certain item is cost effective. Chairman Hoffman thanked her for clarifying and asked for a motion to approve. Commissioner Flanagan made the motion; seconded by Commissioner McBride. The Commission unanimously approved the motion.

Chairman Hoffman moved onto alternative safeguards for separate locked compartment when transporting for multiple establishments. Commissioner Doyle said that was the issue she just raised. Chairman Hoffman asked for any objections to allowing for that request. He asked for a motion to approve that language. Commissioner Doyle made the motion; seconded by Commissioner Flanagan. It was approved unanimously by the Commission.

Chairman Hoffman said they would skip the next issue since the Commission is no longer allowing for home delivery. The next issue is related to transportation. The Commission had required vehicles be owned by the Marijuana Establishment and they have had a request made to include vehicles that are leased by the establishment. Chairman Hoffman said the objective was not to allow personal vehicles in transport, but he personally does not see why they would not allow trucks leased by the Marijuana Establishment. He asked for any reason not to allow that. Commissioner Doyle said she had to abstain from this vote due to a possible financial conflict. She is not going to talk about this issue. Chairman Hoffman said this could be the first opportunity for a tie vote. Commissioner Flanagan said businesses lease vehicles all the time. She assumes some businesses have to retrofit their vehicles and there is an understanding with the leasing company, so she does not have a problem with establishments leasing vehicles. Chairman Hoffman and Commissioner Title agreed. Chairman Hoffman asked for a motion to approve leased as well as owned vehicles. Commissioner Flanagan made the motion; seconded by Commissioner McBride. The Commission approved the motion, with Commissioner Doyle abstaining.

Chairman Hoffman said in the draft regulations they explicitly prohibited firearms for use in transportation in the vehicles. He said the Commission received some comment, but his personal opinion is he sees no reason to change this, but he is interested in hearing from others. Commissioner Doyle said she can only represent what she is been told by Chief Carmichael in the past, which is the preference is not to have firearms involved. Chairman Hoffman asked if anybody would like to reopen this discussion. Commissioner Title said she would defer to Chief Carmichael who represents law enforcement on the advisory board. Chairman Hoffman said then they will leave it as written in the draft regulations.

Chairman Hoffman asked if they are ready to discuss waste; they are not. He moved on to additional operating requirements, starting with cultivation. There is comment on requiring fencing, and if so, at what height. Commissioner Doyle said the statute requires perimeter security, which in her mind is fencing. She does not think they are at a place staffing-wise where they can be specific about fencing. She does think they may need to do that via sub-regulatory guidance. That is a detail they don't have enough information on yet and something they can do later on. Chairman Hoffman asked if she could be more precise in terms of timing. Commissioner Doyle said she cannot. Right now the Commission still does not have a Chief of

Investigations and Enforcement hired. Chairman Hoffman asked Executive Director Collins to weigh in. He said he is working on that.

Chairman Hoffman said the other question is 24-hour video surveillance and whether the Commission will require that, or is there a way to provide a waiver, and if they did, would it require police department input. The issue here is cost. Commissioner McBride said they wrote that permission into the regulations, so in a way that is already there. She said the Commission can establish what the criteria would be for a waiver. Her preference not only in this, but also and there may be some exceptions to this, but generally, if there are waivers being granted or alternatives under the security requirements, there are going to be places where the Commission just does not know what the lay of the land looks like. She would like for there to be some interaction or input by the local police department if the Commission is granting a waiver, that there be some sign-off by the police department, mainly because anything the Commission is going to deem lesser in terms of security requirements, the obligation is going to fall on public safety in the event that there is an incident. Chairman Hoffman asked whether Commissioner McBride means approval or notification. Commissioner McBride said she would like for there to be an approval, a finding that it is sufficient, whatever the alternative is going to be or if the waiver is granted, that it is going to be sufficient. The Commission should include local police departments since this is going to be under them, and if it is something they feel they need to back off of at a later date and time, it is easier to back off of it than it is to ratchet it up. Commissioner Doyle agreed. She thinks the Commission does need to put in some time constraints to make sure the business is not disrupted too much and she is open to what the time constraints would be. It would be similar to what they did with the application process, allowing them some time to comment within this period of time, then if the municipality does not respond, they are deemed to have approved it. Commissioner McBride said that is a possibility or this could be something where it does not necessarily need to be in the initial phase even of the application. The Commission is issuing a provisional license then going through the actual inspection, it could be at that point in time. It is something the Commission can build in and give enough time. Chairman Hoffman said his concern would be unnecessary regulations that are so burdensome as to essentially prohibit activity of this kind in a particular town. He is wondering – and he apologizes for inferring nefarious motive – but if there is language similar to what is in the statute that says while cities and towns have absolute zoning authority, they can't use it to effectively preclude operation of establishments in their town. He is concerned this could be one more barrier that could be used to prevent operations in a town. Commissioner McBride said under the regulations, licensees and applicants have to share their security plans with local public safety. Chairman Hoffman said notification he is not arguing with; he is concerned about approval. Commissioner McBride said anything that is a lesser security requirement will end up falling on those local police departments and there are places in the state where it is a very small police department with very small staff that is shared. She just wants to reiterate that she thinks it is really important that they are providing for or building in some timeline around it, something that is going to increase their confidence that it is not going to become a barrier, but she feels very strongly there needs to be some input there. Chairman Hoffman said he is wondering if there is a way to construct safeguards, while he does support her point. Commissioner Title said she feels this is very premature. The Commission has not established the waiver process yet; it is established in law but they have not issued any guidance or criteria when they would grant a waiver, so to preemptively require local police approval she feels is very premature. Also, she

does understand the need for input, however as a general matter, it should be clear to the Commission by this point that when they require proactive approval from another agency or anyone granting any type of permission this early in the process, that is really hard to get, and the Commission was very explicit yesterday in recognizing that and saying, “here’s the delay that the Commission is granting because we understand we have not been able to do that outreach.” The other side of that coin is to recognize that, but then now today to say the Commission is requiring you as the police department to proactively approve this waiver, is not fair, and it is premature. She would suggest if they are going to make a decision on this that the Commission would be seeking input, and not seeking approval. Commissioner Doyle said she does find the argument that the local police department is going to be landed with what happens when something goes wrong, so she thinks it is fair to give them a voice in the decision if you are going to wander away from the security safeguards, and the reason the alternate safeguards and waiver process is in there is recognizing that there sometimes needs to be alternatives because it may be too costly for a smaller operator to do certain things. She does think it is reasonable to ask the police chief to sign-off on it because they do have the responsibility of dealing with it in the aftermath. She feels if they construct it in a certain way, it will not be an opportunity for someone to engage in any obstructionist activity. Chairman Hoffman said he would need to see that language before he becomes comfortable for the same concerns Commissioner Title has. Commissioner Title said she is not at all suggesting they should not have a voice in the decision, she is challenging quite strongly putting the burden on that person to sign-off or approve. She said imagine if you are the police chief and you are asked, “How do you feel about this waiver that is being granted?” That is a completely different question than being asked to sign-off on it, because then you are almost taking responsibility for if there is an event. Commissioner Title said the waiver process is really important for all of the small businesses and farmers that have asked the Commission to consider when drafting security requirements in the first round, what their circumstances were. They were clear to say here are the security requirements, but there will be a waiver process, and she thinks it would be unfair for them to now go back and say we promised you a waiver process, but now it requires local law enforcement approval. Commissioner McBride said she feels the opposite. It is her hope, if you are operating any kind of facility, but particularly a cultivation operation, where it could be in a geographic area that is less populous with a smaller police departments, she would encourage the licensee or the applicant and law enforcement to make sure the facility is safe, that they are going to be operating potentially in a rural area where, just by virtue of the geography of it, she would want more interplay between the local police department and cultivation facility. She does not view it as burdensome, she views it as productive; she does not discourage licensees or applicants from using the waiver process or alternative safeguards. In fact, it is something the public safety subcommittee recommended that the Commission have alternative safeguards in there. Chief Carmichael was actually a really big advocate of that due to his understanding that there does need to be a balance and the Commission does not want to make it so they cannot reach that standard, then they are not going to do it, they are going to take the risk and hope they don’t get dinged on it by the public safety agency. It really is trying to say you cannot reach that because it is cost prohibitive, turning to the police and saying we want to make sure in your mind that it is going to be safe, and if an incident does occur, you are going to be able to be responsive and keep that operator safe, and other issues such as preventing diversion. She suggested drafting the language to make sure they are striking that right balance, but she does feel strongly that there should be some sign-off that it comports with what the local law enforcement feels is sufficient

for that particular community. Commissioner Title said she thinks she agrees with everything Commissioner McBride just said, except for the conclusion, because they can include law enforcement in the process in every one of those ways, and encourage interplay between the applicant and the agency, and to come up with ways to reach the waiver criteria and submit that to the Commission and for law enforcement to have a voice, but to put that extra burden on the applicant that now you have to go get something signed. Commissioner Flanagan said she comes from the school of thought that the smaller the town, the more interactive people are with local law enforcement. It is not perceived as a heavy hand as it is in some of the bigger cities. She looks at it as twofold: 1) they certainly want people to be able to have their waiver, they want people to be able to get into this industry, they realize security is important to them, but at the same time it might be difficult to achieve from the small farmer. She thinks the police department does need to sign-off on that alternate form of security because they know the lay of the land in their own town. She thinks they need to sign-off on it. She does not think they own it if something happens, they just know what type of surveillance is there and that helps them in their policing. Commissioner Doyle said her two thoughts are there is some value and some comfort to be given by having the local police department involved to the point of signing off on something. She thinks it gives comfort at the municipal level to towns that might be feeling nervous about this that their law enforcement community is going to be actively involved. She does think the Commission should look at safeguards to avoid any undue delays or unreasonable objections in requiring them to articulate what their objections are if they do object. Commissioner McBride thinks this might be something that could be tabled for now and return to it very shortly. Chairman Hoffman said that is fine, and asked what to do in the interim. Commissioner McBride said she would like to reach out to folks in the law enforcement community and get a sense of whether this would be burdensome. It could very well be that the sense is they don't want to have anything to do with this. Chairman Hoffman said he has no problem getting more information because this is an important and difficult topic. He asked for any objections. Commissioner Title said she didn't object, she had one question as to whether this concept came from the advisory board when they suggested the waiver process. Commissioner McBride said they suggested the alternative safeguard language, the waiver was something that when the Commission adopted the regulations, they adopted a lot of what DPH required and the waiver requirement was in there. There was not an explicit sign-off piece to this. This is something that she came up looking through the comments on "what does this mean," "how does this work," so she is trying to give context as to what it would mean, and how it would work, and provide a level of comfort to licensees and the law enforcement community in terms of what this would mean so that folks do have a sense as how to move forward in a short period of time. Chairman Hoffman said that is fine, there does not seem to be any objection to deferring this to later today or tomorrow.

Chairman Hoffman said he was told they are not ready to talk about environmental regulations yet. Therefore they are going to take a 56-minute lunchbreak until 1:30 p.m.

After the break, Chairman Hoffman said Commissioner Title asked to reopen the discussion on patient supply. Commissioner Title said it was brought to her attention by Jeremiah MacKinnon from the Massachusetts Patient Advocacy Alliance that the percentage from the advisory board members was actually 35% not 30% so she wanted to put that on the table. Commissioner Doyle said she is completely in support of changing the number. It is not a significant change and it is

getting closer to the idea of one-third for patients. Chairman Hoffman agreed. He said they left that in the hands of Commissioner McBride and Commissioner Title to review with General Counsel before next week. They will change that. He thanked Mr. MacKinnon.

Chairman Hoffman said they left open before the break waivers for security requirements and the involvement of local police officers or police departments. He said Commissioner McBride reached out to some local law enforcement executives. Commissioner McBride agreed. She said she was going to put forward what she believes to be a compromise: that there be a sign-off by the local police chief because the police executives she spoke with thought that was reasonable because the Commission is allowing an alternative or waiver on a security requirement, but it needs to be acted on within a particular period of time. She suggests 30 days. If it is not acted on in that period of time, the Commission in its discretion, as part of the inspection process, can agree to a waiver for the alternative safeguard and Commissioner Doyle actually pointed out this is not just going to be relevant in terms of applicants and licensure, but there is a likelihood that after licenses issue, businesses might come back and say we cannot keep up with this, there is too much cost, and we want to approach this in a different way that is reasonable. If the Commission can build that in that there is a sign-off by local police in a certain period of time, and in the event that that period of time runs, the Commission is able to move ahead with its process and agree to either the waiver or alternatives.

Chairman Hoffman said he appreciates that and the 30-day period makes sense but he is still concerned that there is a risk that this can be used to effectively prevent a Marijuana Establishment from operating in town, and he is hoping they can come up with some language to prevent against that, similar to the language that is in statute that says towns cannot use zoning as a backdoor way to prevent facilities in town, it is certainly their prerogative to zone, but they cannot use it as a de facto way of preventing operations. He does not know if there is language that they can come up with, but that is his concern. Commissioner McBride asked him if he had language. Chairman Hoffman said he didn't right now, but he does recall the statute has that language with respect to zoning. Commissioner Title said perhaps a way to address that – and she is not in favor of this at all – but if they were going to do it anyway, maybe they would ask in the response, if the response is not a sign-off but a disapproval of the waiver, that it be based on credible evidence of what the security concern would be. Chairman Hoffman asked if it was not, what would be the recourse. Commissioner Title said they could grant the waiver. Commissioner Doyle asked if they had discussed the discretionary language. She thinks that was what Commissioner McBride was talking about. It is not necessarily handing the responsibility completely over to the local police chief, because she agrees, that is burdensome, but what it does is ensure that they get a voice, their voice is important but the Commission still reserves the right, if they cannot support what they are asking for, the Commission can still move ahead with what they think is appropriate. Chairman Hoffman asked if they could overrule the police chief. Commissioner Doyle said she would want to phrase it differently – more take the information in, and if they feel the need to have further conversation, they are not delegating their authority entirely to the police chief. Commissioner Title asked if they can do both, ask if the response is either supporting the waiver or not supporting the waiver, but with evidence. Commissioner McBride asked her to repeat the suggestion. Commissioner Title asked her to read how it is then add her part. Commissioner McBride said all she has is that the local police chief would be able to sign-off on a waiver or alternative safeguard. If the sign-off is not received within a specified

period of time – she suggests 30 days and could be within the provisional licensure period – then the Commission may move ahead at its discretion with approving or disapproving a waiver or safeguard. Commissioner Title said she assumes that means they would ask for a sign-off or disapproval. Commissioner McBride said she would say a sign-off. They are signing off on the waiver. Commissioner Title asked if they are not signing off on the waiver. Commissioner McBride said they would be providing a formal sign-off that this alternative is appropriate and if the Commission feels they are able to agree with the alternative or waiver, they can appreciate waiving this particular security requirement. Commissioner Title clarified option one is that they sign-off on the waiver or safeguard; option two is they don't sign-off within 30 days and the Commission can move ahead; she assumes there is an option three where they don't want to sign-off on the waiver or safeguard, they would not respond. Chairman Hoffman said they either approve or disapprove, and if they disapprove, it has to be evidence based. Commissioner Title agreed.

Chairman Hoffman said there are three options: one is a sign-off, then the Commission makes their decision; two they do not decide within 30 days, in which case, the Commission makes its decision; and three is they say no, we do not sign-off on this for these evidentiary based reasons. He thinks there has to be a positive response, yes or no, because if they have this middle ground where if they don't say anything, the Commission goes ahead with its decision making. Commissioner McBride clarified if they then provide them with evidentiary reasons, it is then on the Commission to say they are going to move ahead or not, they agree it is not sufficient. Chairman Hoffman said that works for him, but he does not know about anybody else. Commissioner Title said in terms of process, is it up to the person asking for the waiver to initiate the process, or would they contact the Commission and then they contact law enforcement. She suggests the second. Commissioner McBride and Chairman Hoffman agreed. General Counsel Christine Baily said she would like to suggest that if they are asking law enforcement, they ask for not evidence but a statement of reasons. Chairman Hoffman agreed and thanked her for that. He asked for other conversation before they put this up for a vote. Commissioner Title said she appreciates what they added, she thinks that helps. A statement of reasons could be a concern about a risk of theft. General Counsel Baily agreed; she does not think law enforcement will provide evidence. Commissioner Title said OK. She feels very strongly that the alternative safeguard/waiver process is what would allow many of the small farmers they have heard from to participate in this industry and for the Commission to proactively add this requirement, she feels would hamper much of the progress they have made to encourage them and also it would give her a lot of concern about their ability to meet their statutory requirement to promote the inclusion of small farmers. Commissioner McBride said they can circle back to the initial conversation on this. The intent is to make sure both the licensee and the law enforcement are comfortable because there is an alternative being given to strict security requirements. That interaction is really important if there is going to be an alternative or waiver on one of those provisions. She said, right out the gate, they heard from people who she assumes are going to be licensees or operating cultivation facilities where they expressed having a really productive relationship with law enforcement, to the point where law enforcement came into their facility to check things out. She is 100% on board with alternative safeguards and providing a waiver, she believes they are good practices businesses will be able to take advantage of and reign-in costs to allow them to focus on what they should be focusing on, but at the same time, she thinks it is important if the Commission is not going to provide

some strict standard, that they are making sure it is the best they can do if it is not A – that it is a pretty close second to A. She would like to be able to, per the conversation yesterday about developing partnerships moving forward and developing relationships and trying to grow those relationships – she thinks this is one where it is good for them to say they don't know everything. It is going to be good for the inspectional services staff is going to be unlikely to be able to know everything and they should be leaning on the people who have the sense of that at the community level. Commissioner Title said she is very clear on the intent and on the benefits of the interplay between the applicant and the law enforcement or police chief are, she is 100% on board with both of those. Pursuant to their conversation yesterday, it is very clear that that trust is not there. That is part of the reason they chose to make the delay, to create that trust. She guesses she is the only person who has been in the position of being an applicant for a business and going to try and get a form signed by an authority that says it is OK for her to do this. Maybe she is the only person who appreciates how unlikely it is for that to happen. She thinks even from looking at the past 6 months it should be clear how that process will go. Chairman Hoffman said he is still convinced there is a way around this if the Commission has the ability to say, "We appreciate your reasons, but those are not substantive," he is OK; if they can't, he does not know if he is willing to support this. He asked Commissioners McBride and Title what they think about it, he is trying to find middle ground but he is not sure he is satisfied either side. Commissioner McBride said she is open to suggestions on how to make that functionally happen on their end. Chairman Hoffman said he understands it is complicated. Commissioner Title said the General Counsel asked for a statement of reasons, that makes sense as the preferred term, so the request would come from the Commission asking for either a sign-off or disapproval with a statement of reason, or if there is no response within 30 days – as soon as one of those things happens, the Commission then has the discretion to make a decision. Chairman Hoffman asked about when the second thing happens, if there is disapproval with reasons, could the Commission still grant the waiver in any case. Commissioner Title said it sounds like it. The Chairman said they need to be explicit about that. Executive Director Collins said the discretion to issue or grant the waiver, approve or disapprove, is the Commission's decision altogether, so if there is local approval, the Commission still exercises its discretion about whether to grant the waiver. General Counsel Baily added the Commission can retain that or delegate that to staff, and the Commission can articulate that; the various scenarios can be contemplated and addressed in guidelines it provides to its designee.

Commissioner McBride said where they are now is the Commission will ask law enforcement for sign-off in the event of a waiver or alternative safeguard; the request will be for approval or disapproval within 30 days. If it is a disapproval, ask for a statement of reasons by local law enforcement, the Commission may then choose to move ahead despite the disapproval. Chairman Hoffman said they were just told they don't have to put that in because they have that right in any circumstance. He asked Executive Director Collins if they have the right to approve or disapprove. Executive Director Collins said whether to approve or disapprove is a decision of the Commission. Chairman Hoffman said he would amend the language if he could; at the time of disapproval, it needs to be accompanied by the explanation of reasons, rather than something they ask for subsequently. It needs to be accompanied in real time. Commissioner Title said this is her last comment. She would support this if instead of asking for a sign-off or disapproval with statement of reasons, if they were to more generally ask for a statement of opinion, because then if the Commission decides to move ahead in the case of disapproval, that they were overruling

them. The General Counsel suggested “statement of opinion” is a term that will be used by the Commission and another governmental body, she personally thinks the statement of opinion is disrespectful. You are essentially saying to that local authority, please tell us whether you approve or disapprove of the alternative security, and the basis for your decision. It does not mean the Commission has to print those reasons or accept those reasons, it is just a term. Commissioner Title asked for a suggestion for a more respectful term that is not as binary as approval or disapproval. General Counsel Baily said she could think about that and propose some language. Chairman Hoffman suggested she do that. He asked Commissioner McBride to tell him what they are voting on. She said she needs about two minutes in case the Chairman wants to recess. Chairman Hoffman said they could wait. After a short break, Commissioner McBride said she was ready to propose language: in the event a waiver or alternative safeguard is requested, law enforcement will be asked to sign-off on the waiver or alternative safeguard, and the Commission will request they provide a statement of reasons in the event they are unable to sign-off on the waiver or request for the alternative safeguard; once the response is received, or 30 days with no response, whichever occurs first, the Commission will move ahead with its consideration of the waiver or safeguard. The Commission will exercise its discretion in consideration of law enforcement’s response or lack thereof when considering the appropriateness of the waiver or alternative safeguard. Chairman Hoffman thanked Commissioners McBride and Title and the General Counsel for their work on that. Commissioner McBride said Commissioner Title raised many good points that have basis in history that she has far more knowledge about than she does or experience in and those are points that are well taken. As the Commission implements this, as part of the regulations, if it is ultimately adopted, she believes its incumbent on them to make sure whoever is in the role of Chief of Investigations and Enforcement understands how this is supposed to be used. It is not supposed to be as an additional impediment to licenses, or an additional barrier, it is meant to be used to assess whether the alternative or the waiver is sufficient for health and safety reasons and business reasons, to make sure there is not an opening where there could be diversion or some other risk to the business or operator. Chairman Hoffman thanked Commissioner McBride and asked for a motion to approve. Commissioner Doyle made the motion; seconded by Commissioner McBride. The Commission approved the motion 4-1, with Commissioner Title voting against.

Chairman moved onto environmental issues which he said cover different parts of the regulations. He thanked Commissioners Doyle and Title for the meeting they participated in last week. He said Commissioner Doyle will share some of the material they have gotten around environmental recommendations. He referred to slides provided by the Executive Office of Energy and Environmental Affairs (EEA).

Commissioner Doyle said essentially what has occurred is the Commission put in some vague requirements in the initial draft regulations simply due to the lack of subject matter expertise, and said they were going to incorporate more detail as the energy and environmental workgroup convened and made recommendations to them. They are very fortunate in that EEA saw the draft regulations and jumped in feet first to give them a head start and allow them to start from a place of strength and serving current laws on energy conservation. In particular, there is a Global Warming Solutions Act that requires Massachusetts to reduce emissions 80% below 1990 levels by 2050 and their suggestions are part of an overall recommendation from them to fold the

Cannabis Commission regulation into the overall strategy of the Commonwealth to meet these emissions targets and implement these emissions reduction policies in all sectors. This has been required for the Gaming Commission licensees as well, so there is a precedent of new industry coming into Massachusetts being required to meet these energy efficient goals. As it happens, the Commission particularly needs to meet these goals because cannabis cultivation operations tend to be very energy intensive in terms of their use. In fact, apparently 4% of Denver's electricity usage is now devoted to the marijuana industry – and since it is one industry of many, that is significant. EEA have made some recommendations as to how the Commission can be compliant with the global warming goals and hopefully not be too cost impactful. The Commission has asked questions and EEA has been very generous with their time in terms of helping to explain particular cost issues. Commissioner Doyle referred to the slide provided by EEA.

Commissioner Doyle said she would explain the upfront cost differences, but they are cost differences that can be made up over the course of the business and not in a way that is so long-term as not to be meaningful. The costs are made up relatively in a short amount of time over the life of the business. Commissioner Doyle introduced EEA's recommendations. Essentially, the building envelope must meet insulation air tightness, and air barrier thresholds as required by the building code. Chairman Hoffman asked if they are talking just about indoor cultivation or speaking more broadly here. Commissioner Doyle said it is more broad than that on the whole, but a lot of the requirements pertain to indoor cultivation and she is assured that it will be easier for outdoor cultivators to meet the requirements because they don't have the need for lighting, etc. Chairman Hoffman asked about the insulation requirements, is that just for indoor cultivation or would that be for manufacturing. Commissioner Doyle said she understood it to be cultivation. Commissioner Title said the Chairman will see places where outdoor cultivation is exempt. Commissioner Doyle said to explain the acronyms, ASHRAE is American Society of Heating, Refrigerating and Air-Conditioning Engineers, and in other places you'll see IECC, that is the International Energy Conservation Code.

For equipment standards, there is a requirement for an average of 36 watts per square foot. Chairman Hoffman asked if there are similar requirements in place for the medical marijuana industry. Commissioner Doyle said other than General Law she does not recall anything being specifically in the medical marijuana regulations. Chairman Hoffman asked if it is fair for participants in the medical marijuana industry, because these are new requirements to them. Commissioner Doyle said they did raise that in their meeting with EEA that they are concerned there are businesses that already built out and invested in equipment that may need to be retrofitted and so they have suggested they allow a phased-in of compliance with the energy and efficiency standards for people who have already built. Essentially what is proposed is adopting energy standards that will allow the Commission to meet the goals required by law and applying existing law expressly in the regulations to marijuana cultivation. They did not think there needed to be anything specifically for product manufacturers applied, and they had some revisions to the leadership standards, which were again somewhat vague, waiting for further clarification. The Commission had discussed those a little bit this morning. They had pushed back on the issue of using 100% of the energy credits or retiring 100% of energy credits, and EEA do think 100% is achievable and would like to recommend sticking with that. All in all, it is essentially recommendations from EEA to amend draft regulations to bring more specifics to demonstrate to the industry on how to meet energy and compliance so the Commonwealth as a whole meets its obligations under the Global Warming Solutions Act, and specifically they

recommended these changes to the Energy and Environmental Leader category for exceptional efforts in that regard, and allow for a phase in for existing RMDs and they have proposed a one-year phase in. Chairman Hoffman said he apologizes in advance, but speaking personally he needs to read this material and think about it before he can discuss it. He asked if they can put it on the agenda tomorrow morning. It is an important and complicated issue and he does not have an informed opinion right now. Commissioner Doyle agreed. Commissioner Title said as someone without much subject expertise here, she found the letter from EEA to be very helpful, but still found some aspects to be too technical for her, so they explained in their presentation, and she also asked several environmental groups who had reached out to the Commission during the public comment period to weigh in, and she is happy to share any of that. Chairman Hoffman said he appreciates that, as much information as he can get. He asked the Commissioners to circulate that information and he will put it on the agenda for first thing tomorrow morning.

Chairman Hoffman said with respect to environmental issues, one thing they skipped over was the issue of waste disposal. Commissioner Doyle said similarly, DEP had gotten them specific language the day before they took their final vote in December. It was too much for her to ask the Commission to digest in addition to everything else they had gone through so she held off adopting it. Essentially what it does is provide greater specifics regarding recycling and RMDs, how to dispose of organic waste, as well as hazardous waste, and it incorporates by reference – similar to how the Commission incorporated by reference sanitary requirements – existing laws regarding waste water treatments, discharge, pollutants, etc. and provides specifics regarding how things will be disposed of in terms of things like grinding it up and mixing it, etc. She said it talks about again how, similar to DPH regulations, marijuana establishment agents must witness how it is handled and disposed of and document it and keep records of how things are disposed. They had an original draft of two years and now it is three years they recommend. They had asked to add language extending the duration of that record requirement for the duration of any enforcement action or otherwise by an order of the Commission. So, if there is an issue with how things are disposed of, they want to make sure they keep the records in order for them to do that. Chairman Hoffman asked what the proposal is. Commissioner Doyle said it is to adopt the recommendation from DEP that is explicitly incorporating standards already required by law, and she thinks by putting it in the regulations, it makes it easier for applicants to understand what the obligations are, and helps them to be compliant. Chairman Hoffman asked for a motion to approve. Commissioner Flanagan made the motion; seconded by Commissioner Doyle. The Commission unanimously approved the motion.

Chairman Hoffman moved on to additional operating requirements for retail, starting with physical separation. The Chairman suggested the Commission discuss virtual separation first. The issue is at what point in the value chain will the Commission identify a product either as medical or adult use. He said from his own thinking, he thought the objective or the philosophy was that at point of sale, at retail, it needed to be distinguished as either a medical or adult use product – not at cultivation or manufacture, but at point of sale. That was his understanding of what the Commission talked about in December but if they weren't explicit enough, he thought it was worth a conversation again or at least affirmation. He asked for any debate or disagreement about the fact that from a product identification standpoint, it has to be identified as medical or adult use at retail, not before. Commissioner Title said she agrees. The only concern was making sure the patient supply was adequately protected; now that they have dealt with that, she feels

they should give businesses as much control as possible based on their own business needs. Commissioner Doyle said the way it is currently drafted is it was virtually separated before and then physically separated at point of sale. She does tend to agree that at least for her purposes, she was most concerned about patient supply at the product level. She just wants to make sure, since there are different dosages, that is her concern, making sure the two are separated. Chairman Hoffman asked for other comments. He asked if any changes were required, or more clarification. Commissioner Doyle said she thought they already had virtual separation of medical from adult. Chairman Hoffman said he'd like to hear what the regulations have to say, but also based on the public comments they received over the last month and a half, there is confusion, so perhaps the regulations aren't clear or they weren't explicated clearly enough, but there has been confusion in public hearings and public comments on this issue. Executive Director Collins said as the regulations read now, they do not articulate as to when the separation occurs in the distribution, so perhaps that lead to confusion. It does say you must create virtual separation of products using leveraging or tracking methodologies. Chairman Hoffman said the proposal then would be to amend them to make clear virtual separation has to happen at retail, but not sooner. Commissioner Title asked if he meant at point of sale. Chairman Hoffman agreed that is probably more accurate. Commissioner Doyle asked if there are any issues for product manufacturers, if that makes life difficult for them, with 5 mg dosage for adult use and the different dosage for medical. Commissioner Title said by making it at point of sale, it is left up to them, what system they use, as long as they make sure to fill it to the right person. Executive Director Collins said to Commissioner Title's point, the tracking system will accommodate that. If a product is manufactured exclusively for the medical market, it could be identified as such in the tracking system. Chairman Hoffman agreed but said they are not requiring it to be virtually separated until point of sale. He asked for a vote that they will not require virtual separation until point of sale, and clarify the language in the regulations to make that clear. Commissioner McBride made the motion to approve, seconded by Commissioner Doyle. The Commission unanimously approved the motion.

Chairman Hoffman opened discussion on physical separation. There were several issues that came up during the comment period about this, about separate entrances, physical separation in terms of walls, confidentiality or private rooms where patients can go if they desire to keep confidentiality, versus the alternative, that the only separation required is at point of sale, so it was clear, whether it is a medical marijuana sale or an adult use marijuana sale. Commissioner McBride said during the hearings and comments they received comments but that there is a desire to have physical separation, but also the opposite desire. Chairman Hoffman said that was his experience as well. Commissioner McBride suggests talking through ways of finding some kind of compromise there, but in terms of physical separation, it was her understanding when they adopted this in December, and it has been moving forward, that by physical separation, they didn't intend for it to be a wall or structural barrier. It was intended to be a stanchion or rope-type situation for physical separation, so it needs to be clarified. Chairman Hoffman said they do need to clarify it but he agrees that was the intent in December. He asked if the Commission could talk it through, the process flow, starting with whether there is a need to have separate entrances. Commissioner Doyle disagreed. Chairman Hoffman said he also disagrees with that idea, but he heard suggestions that there need be; personally he does not believe there needs to be. Commissioner McBride agreed, she also believes it really should be based on the patient's preference, whether they go into a line that is going to be for both adult use and separated at

POS, and if there is a medical line there, which she would suggest there should be, that it could be as simple as at point of entrance saying, “medical patients, you can use either line.” She thinks that provides the option; people have varying comfort levels and that is something the Commission needs to respect. She said she has been to a couple of dispensaries and it is her understanding that it is a common practice to have a confidentiality room. She thinks that is also important that that be retained. Chairman Hoffman asked if they should make it a requirement. Commissioner McBride said she does not know if it is something they can talk about whether it needs to be a room or a separate area, something that does provide for someone who would want confidentiality, that it provides that level of confidentiality. She does not think they need to belabor it. Chairman Hoffman asked about display cases and if they would have products for both medical and adult or if they would be separate display cases. Commissioner McBride said what they just decided is that it would be point of sale. Her feeling is as long as it can be identified at point of sale, when you are in the confines of the dispensary, how you display it is up to the business owner. Chairman Hoffman asked for any comments and if he missed anything in terms of flow walking through a dispensary. Commissioner Doyle said no, she agrees with everything Commissioner McBride said. They heard from RMDs that they were concerned patients would feel stigmatized, but they also heard from patients that they didn’t want to get stuck in a really long line that had both adult and medical. If they are not worried about stigma and they would like a way to simply access it, then the Commission should accommodate them. Commissioner Flanagan agreed. She said when you talk about medicinal use, and some of the dispensaries they have been in, people just want to go up there, get what they know they are getting, and walk out the door, not necessarily stand there and talk about everything else or get in a long line that is for adult use and not medicinal. Having options for the medicinal patients to go in and get what they need makes sense. Commissioner Title said she agrees with Commissioner McBride and with the requirement that there be a patient line as well as a line for everybody else that patients can get into if they want to, and then a confidentiality area for patients who want consulting privately. In terms of physical separation, she thinks they are all on the same page but it is also extremely unclear to the readers. She thinks that they should clarify that. Chairman Hoffman said then it is not a change in the regulations, it is a clarification for next week. Commissioner Doyle agreed.

Chairman Hoffman said they already went over the next item on the list, that employees are allowed to respond to questions about pricing. They talked explicitly that they can respond to questions about pricing. He asked if there was any reason to not include their ability to respond to a question about strain, or does the next topic mean pricing for different strains. Commissioner Doyle said that was not meant to couple the two. Chairman Hoffman said then pricing has already been addressed. Commissioner Doyle said sometimes marijuana establishment agents are asked about whether a particular strain has a certain effect or is helpful to treat a certain condition. Someone wrote in and said they didn’t feel clear if their employees are allowed to answer those questions. Chairman Hoffman said he didn’t see any reason why an employee could not respond whether something is in stock or not. Commissioner Doyle agreed, but if someone has discomfort, she would like to give comfort that they should be allowed to interact that way. Chairman Hoffman said again, this is a clarification with respect to the regulations. Commissioner Doyle agreed.

Chairman Hoffman said the next topic is adopting retail sanitary code. Commissioner Doyle said

this is a recommendation from DPH. In DPH's current regulations, they don't have it incorporated, because RMDs are vertically integrated. The wholesale sanitary code had the issue covered, but where it is separated out now, they requested that the Commission adopt relevant aspects of the retail sanitary code. Chairman Hoffman said that makes sense and it is not clarification, but an addition to the regulations. Commissioner Doyle agreed. Chairman Hoffman asked for further comment or questions. There were none. He asked for a motion to approve. Commissioner Doyle made the motion, seconded by Commissioner Flanagan. The Commission unanimously approved the motion.

Chairman Hoffman moved on to the topic of sales limits, and clarifying what the Commission means by "at a time." Commissioner Doyle said she thinks in the existing regulations, they have essentially a provision that requires transactions to be limited to the possession limit under the law. There is a technical correction regarding grams of concentrate they can talk about next week. The issue she thinks the commenters brought up is "at a time" is unclear. She said it is hard to get more specific than that without creating more problems. Chairman Hoffman asked for specific language or a proposal. She said she did not have proposed language. Commissioner McBride said the question was whether it was a one-time transaction, whether it was something where someone could go out and come back in, and that gets to things they do not have the authority to look at and to regulate. She said if it makes it clearer, the Commission could say, she is looking at "limitation of sales: marijuana retailer may not sell more than one ounce of marijuana to a consumer," they could say "per transaction" or "during a one-time transaction," except but not more than 5 grams of marijuana may be in the form of marijuana concentrate. She thinks that is probably the best they are going to be able to do. Chairman Hoffman agreed. He said they will add that to next week's discussion as well.

Chairman Hoffman said the next topic is consumer education. He asked to talk about the issue: "requiring all languages is overly burdensome." He asked what the regulations require. Commissioner Doyle said it is all languages for a particular market area. Chairman Hoffman asked who determines that. Commissioner Title said it perhaps mistakenly says "patients"; it says educational materials must be available in languages accessible to all—the consumers—served by the marijuana establishment, including for the visually and hearing impaired. She said that is a pretty reasonable concern – languages accessible to all consumers. As a retailer can't possibly do every language in the world, maybe the Commission could clearly list a few languages and add "consumer education as requested in a certain language," that it be issued. Commissioner Flanagan said there are many programs in Massachusetts, including ballots, in multiple languages. She asked if there is a way to find out what those languages are, instead of reinventing the wheel and arbitrarily picking a couple, do the same thing. Commissioner McBride said she was thinking the same thing and they can look at the technical language for it, but she thinks it goes to the census and the population at the last census, if it is a particular percentage, if so then it should be in those languages. Chairman Hoffman said they can defer that to next week. He just wants to make sure they don't lose the hearing and visually impaired. Commissioner Title said she thinks the standard is the six most common spoken languages in the state. She also asked how people feel about if there is a request to translate it into another language. Her concern is tourists, where they come in and go to an adult use dispensary, and not be able to access the consumer education because it is not in their language, that might be a problem. Commissioner Flanagan said it will cost money to do all the translations. She

understands the tourism industry is great. She would want to look at MOTT, the Massachusetts Office of Travel and Tourism, to see if they have a set of languages, instead of reinventing the wheel. She said she does not want to arbitrarily pick languages. Chairman Hoffman said it would be as requested. Commissioner Flanagan said she understands, but being proactive, if there is something the Travel and Tourism industry uses, just copy it from that, if that is OK. Chairman Hoffman agreed. He said it is an issue for next week. Commissioner Title asked if the Commission themselves provided educational materials in different languages so they don't put that burden on businesses. She is trying to think, from a public health perspective, if someone does not speak English, they need to understand what they are buying. Commissioner Flanagan said that is why she is saying let's find out the processes that are in place for ballots and other health education, and see how that works, and then the Commission can determine how to move forward with that. There must be someone doing this for all the agencies. Executive Director Collins said it is definitely something they can explore, he just does not know the context of language translation services, if it makes sense, especially making sure it is done well and accurately, and not too casually. He said it is worth exploring and it is in the Commission's best interest to provide education materials and maintain those materials on a web platform to do that, and if they want to go even further to offer materials in other languages, depending on what they want to do. Commissioner Flanagan said she agrees with Commissioner Title that from a public health perspective, it is important especially for new consumers, but it comes back to copying what is already being done instead of reinventing the wheel. Commissioner Doyle agreed. Chairman Hoffman agreed and said the Commission has a lot of work between now and next week.

Chairman Hoffman went back to the other topic around consumer education: "add information re: penalties for violation of the law." Commissioner Doyle said they had a request from law enforcement that people get information up front because sometimes it is difficult to access General Laws, etc., so as part of their packet, they learn about the product, but also warnings about penalties and criminal punishment. Chairman Hoffman said that makes sense. Commissioner Title agreed. Chairman Hoffman asked if that requires a vote. Commissioner Doyle said it is a new addition. Chairman Hoffman asked for a motion to approve to add information re: penalties for violation of the law. Commissioner Flanagan made the motion, seconded by Commissioner Doyle. The Commission unanimously approved the motion.

Commissioner Doyle said the other additional operating requirements to retail is DPH wanted them to make it clearer that marijuana or cannabis and marijuana or cannabis products cannot be sold without being tested first and deemed compliant with the testing protocols. They just want to reemphasize that. Commissioner Doyle said they have the language already, the proposal is just adding additional language reaffirming that products need to be tested. She said she wants to be respectful since they made the request, and she is happy to accommodate it. Chairman Hoffman said he thought the regulations make it clear. Commissioner Doyle said she could read it: reemphasizing in this particular area where retailers may be paying additional attention that they do need to make sure products are tested and compliant before it is sold. Commissioner Flanagan said it is another layer. Commissioner Doyle said it is possibly redundant language but it is important, so she has no problem complying with that request. Commissioner Flanagan said it is a good move. Commissioner Doyle said it is taking language from one place and adding it somewhere else. Chairman Hoffman said if it is redundant language that is already been

approved they do not need a subsequent vote. Commissioner Flanagan said to tell DPH thank you.

Chairman Hoffman asked for any other retail issues. The next topic is .150 with respect to edibles. He was not aware of any issues. Commissioner Doyle said the one request they got from DPH was the language issue. Chairman Hoffman said the next issue is with respect to testing. Commissioner Doyle said there was another issue about language but that is for discussion next week. Chairman Hoffman agreed.

Chairman Hoffman said the next agenda item is getting out of sequence of the draft regulations, but he dragged together a few issues with respect to municipalities. He thinks there is quite a bit of uncertainty and ambiguity, so it makes sense to bring them all together to discuss them. The first one deals with Community Host Agreements. The Commission received several comments or suggestions that the Commission play a more active role, ranging from providing a template, reviewing all CHAs, and requiring after the fact collection of data from municipalities to make sure what they are asking to be reimbursed for reflects their actual expenses. He thinks those are reasonable requests that should be talked about. Commissioner Doyle said she is happy to speak on that. She does not know if this is something that would go in the regulations, but her thought is what she would like to do is following filing these regulations on March 9, is take a moment to essentially issue a municipal survey and ask the 351 municipalities where they are at in terms of do they have a moratorium or a ban have they enacted zoning regarding adult use marijuana, and if not, are they in the planning process. If they have a host community agreement with an adult use facility, would they be willing to share it with us, could they send it back to us and they can decline, it would be voluntary. If they are willing to send it to the Commission, they could put them online, if the Executive Director confirms it has the bandwidth, so they can see what one of these looks like. Chairman Hoffman said he would speak for the Executive Director that that is not going to be an issue. Commissioner Doyle said they could also potentially allow the community survey results to be shown, but that is also a bandwidth issue. She does not know if the server can accommodate that much in the way of documentation. All of it is public record anyway. All the Commission would be doing is compiling it and making it available as a resource to anyone who would be interested in the information and assist them perhaps in their own efforts.

Chairman Hoffman said personally he thinks that all makes sense, and it addresses the issue of should they provide a template, but it does not address two other issues: 1) do they have a review process by the Commission or not, right now in the draft regulations there is no Commission review – there is been suggestion and feedback that they do, but he is not advocating as much as raising the issue; 2) is ex post facto, ensuring whatever the community is charging for services is justified by the actual expenses they accrue. He said those are above and beyond what Commissioner Doyle suggested, which he completely supports. Commissioner McBride said as they talked about back in December, she is not confident that they have the authority to wade into any dispute that might arise. She has come over to a place where she would like to be able say they can draft some kind of Host Community Agreement template, she is not confident at all that there would be a lot of utility to it because there are some terms that fluctuate and she is not confident enough to draft that. There may be a place for guidance. It drafts off what Commissioner Doyle just said with regard to collecting host community agreements and trying

to figure out what are some guidelines that they can put in three that are reasonable and what is reflected in the statute, and make sure it is reflected going forward. She said a guidance provides people in the industry with what a host community agreement should look like, because they did receive a ton of feedback on that and she absolutely agrees with what Commissioner Doyle stated about collecting the information, but she also thinks she would really like to see a report about the financial benefits to the host community. She would like to have a level of transparency there, because there is some revolution here, where it is five years per the statute, and making sure that there is transparency. She would like to see it on both sides, although she is not sure if the Commission has any authority to say the municipality must provide financial information, but that may be something they can work on with them. She thinks it benefits everybody to try and level the playing field as much as they can on this particular subject matter so she would throw that out there for conversation. Chairman Hoffman said he agrees with everything she just said, he is just not sure what the specific proposal is. Commissioner McBride proposed to put together guidelines relative to community host agreements and within the regulations, adopting a requirement—whether it be on renewal or a certain date—that licensees report financial benefits accrued to the host community as a result of the host community agreement, and that would make those be a public record. The Commission would make that transparent and make it available. She would like to have municipalities doing the same. Her proposal would be for licensees to have that requirement, then with a policy decision being that they would try to work with municipalities to generate the ability to collect the information on that side as well, so it would be transparent. Commissioner Title said she totally supports that idea and thinks it would be very helpful to those who are just starting the process on both the municipality side and applicant side, to be able to access that information, the agreements, the sample agreement, and look at what the cost has been in similar communities and to see what financial arrangements have been made. She thinks that is probably the most useful information they can offer.

Commissioner Flanagan agrees with Commissioner McBride and said she would be more comfortable doing a guidance when it comes to community host agreements instead of a template. Just as they talked about cultivation security, each individual city and town, and she would be more along the lines with the smaller towns. The needs are just very different than the larger towns. She is imposing her cynical thoughts into this: there are towns trying to squeeze these companies of things they shouldn't necessarily be trying to get out of them, because this is their chance to do that, just like the Commission talks about people, this is their one chance to get into this industry. She thinks they have to balance that. She has gone out and spoken at many public events and said companies coming in should want to be part of the chamber, they should want to be good neighbors, but the municipalities should not be squeezing them for things they would not normally be paying for, so she thinks the guidance is very helpful when it comes down to it, but also she would also like to see the data with what the costs are associated for the towns. She was in Ashland about a week ago. They are concerned about investigations from their Board of Health. They don't have staff on their Board of Health, what are the requirements, what are they going to have to do. It is just what the towns are thinking; there are all different thoughts going on. Knowing what the actual costs are to a community for this would be helpful, so she thinks all the data they can collect is important, but she would be more comfortable with guidance rather than a template. Chairman Hoffman said he is comfortable with that. He said the Commission can require the licensees to see the data, but they can't require the cities and towns,

but he thinks it is important to try to figure out how to get that information. He asked what the best practice is to try and get that information. Commissioner Flanagan said they could talk to MMA and see if there is a way to do this. Cities and towns are very good at letting the legislators know every year how much it costs to do X, Y, and Z, so she does not think this would be any different to say, “hey, these are the additional costs associated with this industry in my town,” and they might want to be partners in this. Commissioner McBride said possibly as part of the guidance, the Commission could suggest, as part a term of the contract, that both parties agree to make the information available. Chairman Hoffman agreed, he said also working with the MMA, the ideas are not contradictory, they are additive, which is great. Commissioner Doyle clarified if by “that information” she means costs. Commissioner McBride agreed. Chairman Hoffman said to summarize where they are: 1) they are going to try to collect information from cities and towns with respect to draft CHAs that they in place and make that information publicly available; 2) they are going to create a municipal guidance document – they are not going to create a template CHA – but a municipality guidance document on community host agreements, as part of the municipal guidance; 3) in that municipal guidance, with respect to community host agreements, they are going to suggest it is good practice to collect data on both sides in terms of the costs associated. He said those are all non-regulatory issues. The only regulatory issue is the requirement they would give to licensees to share data in terms of the costs incurred upon renewal. He thinks that is the only thing they need to take a vote on. Commissioner Title said she thinks that is an accurate summary. She wants to know the rationale for issuing guidance versus a template agreement. Commissioner Doyle said speaking for herself, presuming she is the person with most municipal experience here, she does not know if even she has the experience to create a template. Municipal agreements are specialized and she knows she is not personally familiar enough with the ins and outs to say own town should follow this; whether they could partner up with other people to do it, she does not know, but it is not something they could do in the short-term so that it is helpful for the first application process. Commissioner McBride said her preference for a guidance is that any model agreement, even though they would caveat it up and down and say this is a floor, not a ceiling, because it will have to be generic and generalized, it might not give the fullest amount of information, and she didn’t want to give a false sense of “this is everything you need to have in there.” She thinks guidance is a little more flexible and can actually be used. Chairman Hoffman said then the only vote is the requirement of the information to be provided upon renewal by the licensees. He asked Commissioner McBride to be explicit about the information they are requiring from licensees at the point of renewal. Commissioner McBride said upon renewal, licenses report all financial benefits accrued to the host community as the result of the host community agreement entered into by the municipality and the licensee. Chairman Hoffman clarified that means the monies paid to the municipality under the terms of the CHA. Commissioner McBride agreed, on an annual basis. Commissioner Doyle said they might need to work on the language regarding “financial benefits.” Chairman Hoffman agree and asked for a motion to approve. Commissioner Doyle made the motion to approve, seconded by Commissioner McBride. The Commission unanimously approved the motion.

Chairman Hoffman moved on to buffer zones. He said it might be a clarification issue but they received a lot of questions and comments on it. Commissioner Doyle said this is a clerical error that caused a lot of confusion, for which she apologized. It was in one place they had incorporated statutory language from Chapter 94G in another place, incorporated regulatory

language from DPH, which is an entirely different standard, and one she thinks is not available to them because of a statutory restriction in 94G. Chapter 94G had taken that “children commonly congregated” language out for a reason, and narrowed what kind of schools can be used as a starting point for the buffer zone. She apologized for all of the confusion that caused. It was unintentional, and she recommended they be consistent with the statute, because that is what it requires, until the legislature changes it. She said one thing she would add in addition to the clarification: a number of commentators requested the Commission provide a starting point; are they talking about 500 feet from a building or 500 feet from a property line. She would suggest there is language in DPH’s current regulation that talks about using the nearest point of the properties as the starting point to measure the line. She read, “The 500-foot distance under this section shall be measured by a straight line from the nearest point of the property line of the school in question to the nearest point of the property line of the proposed marijuana establishment.” The reason they use the word “school” is because the statute explicitly talks about preexisting public or private schools providing education and kindergarten from grades 1-12, unless the municipality has adopted an ordinance or bylaw that reduces that distance. Commissioner Title asked if someone with more municipal experience than herself could explain the other options besides nearest point. Commissioner Doyle said they could do property line, but the only problem she had with property line is a case-specific one. In one instance, they had to measure, and it would not be an issue in here, from a golf course. It had a school for learning how to play golf, and it was at the opposite end of this very large property, thousands of feet away, so the issue that comes up, schools often have extensive grounds, so are you measuring from the property line or from the building, the push and pull of that is of course children may be playing on playing fields on the grounds, which is the argument for the property line, because it is all the space where the children may be. Commissioner Title asked if it is being proposed then for the building. Chairman Hoffman said the property line is being proposed. Commissioner Doyle said the nearest point of the property line is what she had written. She wanted for the fullness of the discussion to expose that issue, that sometimes there are really large grounds involved. Commissioner Title said she would suggest the building. Commissioner Doyle said the problem with that is that then the kids might be outside. Chairman Hoffman said he thinks it should be the property line; he agrees with Commissioner Doyle. Commissioner McBride agreed. Commissioner Flanagan said for the most part, she agrees with the property line, but then many cities and towns right now are trying to become very walkable. Boston is one of them; they are trying to put parks and recreation in all these neighborhoods to get people outside and families being together, and this in no way, shape or form works with that model. You have cities and towns doing one thing, you have the Commission trying to regulate an industry in Massachusetts and they don’t coincide. She does not know about using property line. Commissioner Doyle said there could be waivers. If there is a specific situation where the school grounds are so extensive that it is absurd, the waiver standard is it does not pose a danger to public health. Chairman Hoffman asked Executive Director Collins if there was a comparable situation with the Alcoholic Beverages Control Commission. He said he is not aware of those kinds of siting requirements. Commissioner Title said it is probably worth pointing out how difficult it is to find a building or facility that meets all the requirements zoning-wise, and if you are renting, finding a landlord that will rent to you, it is very, very difficult. If it is something that is a question of a few feet, she thinks they should just let them do it. Chairman Hoffman said he understands both sides of the argument. He asked if there was a way to craft language without getting back into “where children congregate.” Can they use language around playing fields or

wherever the boundary is “on school grounds” to exclude things like parking lots. Commissioner Doyle said the lawyers are wincing. Commissioner Flanagan said the question becomes something like soccer fields or football fields; how many schools have these things at their actual facility. She knows in Leominster, the football field is nowhere near any of the schools, you have to go somewhere to play football, so looking at the makeup of the municipality, she knows what the intent is, and agrees with the intent. She does not think this should be near kids or high schools should have access to this but thinks there has got to be a middle ground legally. Commissioner Flanagan asked for the wording again. Commissioner Doyle said it is two parts: one is the change where it accidentally incorporated DPH language and convert it to 94G; the second part is to add a point of measure and what she had written is: the 500-foot distance under this section shall be measured in a straight line from the nearest point of the property line of the school in question, and the nearest point of the property line of the proposed cannabis establishment, so it is property line to property line. Commissioner Flanagan clarified it is just schools. Commissioner Doyle agreed it is just schools under 94G. They are required not to be within 500 feet of a preexisting public or private school providing education in kindergarten or grades 1-12 unless a municipality has adopted an ordinance or bylaw that reduces that distance. In some communities, they shrunk it because it would have effectively prohibited. General Counsel Baily said one thing to think about is how easy it is for the applicant, this would be done on town records, property line to property line; when you get into buildings, there could be some error there, so she supports what was suggested. Chairman Hoffman asked if there was any objection to including the waiver language. Commissioner Doyle said the waiver language is already in there. Chairman Hoffman asked for a motion to approve the language with the clarification. Commissioner Flanagan made the motion, seconded by Commissioner McBride. The Commission unanimously approved the motion.

Chairman Hoffman said the next municipal issue is with respect to the community outreach meetings. If they continue to keep that in the regulations, there are some clarification issues with respect to timing and process. Commissioner Doyle said she can refresh people on the issues involved, in terms of why they put it in. She explained the various types of municipal land use permits. With special permits, site plans, variance, there is a public hearing process typically involved; abutters get notice and they have an opportunity to be heard. If a use is allowed by right, they don't have that. They could live next door and have no idea that something is being put in until construction equipment started showing up. In some towns they have decided to either put marijuana establishments – it is all medical, not adult use, just relaying the history— they decided to put medical marijuana, retail, cultivation, under an existing use rather than creating a new zoning district for it. In some instances, that zoning use was by right. What happened was the abutters didn't know it was going in and were startled. The outcome of the startled reaction is the RMD ended up having to leave town because there was such a negative reaction to it and it just soured the relationship between the RMD and the community. Commissioner Doyle said the idea here is essentially a safety net to make sure in all communities, the community has the opportunity to understand what is being proposed, where it is being proposed, and to ask questions because if the Commission does not require it, it may not happen. There are some applicants on the medical side that did this voluntarily, and their relationship with the town and the people in the town is much better than where people tried to jump in and hope no one noticed. She thinks it is good to be open, to have these discussions, let people ask questions. It will sometimes calm people down. She understands there are always

going to be people who are intractable and hostile to the entire issue. She thinks even though the meetings are probably going to be difficult to do, it is important to have this discussion. Chairman Hoffman said they did have this discussion, and he believes it was a unanimous vote to require this. The question is if they should reopen this or keep the language and make clarifications if there are issues. Commissioner Title said she originally supported it in theory, but based on the meetings she has had the past few months and she is persuaded that it is unnecessary, that it is repetitive and there are not situations where permission is being granted, or community host agreements are being signed without people in the town knowing about it. She is not convinced it is a problem that needs solving. She also feels there is a lack of guidance as to how this would work, and what the specifics are. Commissioner Title said in most cases, a meeting or similar hearing, or some way for people in the town or to city to make their voices heard, would already be in place. She said she knows the Commission said it would issue guidance for license applicants on community outreach, but there is a time issue there and a lot of other guidance that they need to issue. Chairman Hoffman said if they go ahead, they have no choice but to clarify the process. He separated the two comments that were made: 1) should they do this or not; if they do do it, they need to provide guidance and clarify. Commissioner Doyle said they did commit to do guidance in that original draft. Commissioner Title agreed. Chairman Hoffman said the issue is whether to require it; they know they need to do clarifying guidance if they do.

Commissioner Doyle said to speak to the one issue she thinks was the best argument against doing them, and a couple different people raised it, was that in towns that do have the permitting process, it is going to be somewhat duplicative. It is going to be at a different stage though. Typically, what happens in terms of the timeline, is applicants go to the state first to get their approval from the state, and once they have gotten that initial provisional approval, they go to the municipality and seek local permitting, and that is when you have the hearing, etc. and people get to talk. The difference here is it is sort of flipping it: the residents of the municipality get to hear up front what is being proposed hopefully before a host community agreement is begin negotiated so they can highlight their concerns. Commissioner McBride said she would harken back to the conversation in December and reassure fellow members. She proposed this and was not a person in search of a problem, she was in search of a solution, because what they heard at public listening sessions they did initially, which is that the letters in support of non-opposition were essentially meaningless. They also heard there was a real grappling with the host community agreements, which is the conversation they had 10 minutes ago. There was this real sense of people not understanding what the marijuana establishment's plan was in their community. Commissioner McBride said what this was an attempt to do was strike a balance where there was an opportunity for the applicant to get up in front of the community and say, "I've thought this through, I have a good business plan, I'm going to operate in a really responsible way, this is my plan," to get questions back from the community, and address those questions up front. Also, it is to hear from the community, "we think it is going to cost more because we need an additional police officer," or "where you want to site it, there is going to be traffic and we'll have to put a new light in there, it is a terrible intersection," those could then be turned over and at the point of negotiating the host community agreement, you could have an applicant saying, "We heard the following things, you, municipality, are positing that you also want us to pay for these; we didn't hear any of that. Let's talk in real dollars about what the costs

are going to be.” This was truly never intended to be a heavy-handed, “you have to have multiple meetings and hearings.” It was trying to address a couple of different issues that were raised.

Commissioner McBride asked the Commission to consider the reasoning for this, and if the sense is it is too much or not needed, she will stand by that she thinks this is a good idea, but if other things need to happen to clarify it, she is very open to clarifying it. Chairman Hoffman said they need to clarify it, this is a question about whether to include this requirement or not. Commissioner McBride said on the clarifying process and timing, this is not a state issue, it is a locality issue. It is not something that has to happen at the state level. It is something at the municipality that the applicant would go into the community and say, “I’m going to reserve this community room in this public building. I’m going to post this and follow the provisions in the regulation, have a meeting on this night.” If you end up with five people showing up, you had your meeting; if you end up with 500 people showing up, you had your meeting. It was not more than that. Chairman Hoffman said this is best practice. The only question is to require it or assume people are going to follow best practice. He sees no reason to change his original opinion which is he thinks this is a good idea, but he does think they need to clarify things to the point Commissioner McBride just mentioned. There is unquestionably confusion, but he supports this requirement. Commissioner Title said her last point on it is she thinks it is somewhat inconsistent to say the Commission is not going to review community host agreements because they are not getting involved in the relationship between the two, and say, “this is what the law requires, once we see it is signed, the Commission is done.” She does see how this is a best practice, and it might make sense to include it in the guidance just discussed with regards to host community agreements, “here’s something you can do in your community that might be helpful,” but then require it, particularly in a way where we can’t be specific as to the process that must be used because it is going to be more than 300 different ways, she thinks it makes more sense as a best practice than as a requirement. Commissioner Doyle said the process is pretty detailed in the regulation. Commissioner Title said she is looking at it, “Copy of the meeting notice filed with the city or town clerk, the planning board, the contracting authority for the municipality, and local licensing authority” that would be different in each, according to what city or town it is. Commissioner Doyle asked her if she meant the addressee. Commissioner Title said the process; she is gotten a lot of questions on this and assumes other Commissioners have, too, such as, how do they start arranging this hearing, who do they call, where do they hold it. Commissioner Doyle said they can put all of that in the guidance. She can see that with a newer applicant but anyone who has ever filed a zoning application in their hometown would be familiar with this process. Chairman Hoffman said there is hopefully a lot of people who have not done that. He thinks they have to assume that. Commissioner Doyle agreed, and said that is what has to go in the guidance. Chairman Hoffman asked for other comments. There were none. He said the proposal on the table is to keep the requirement in the draft regulations, subject to clarification they talked about that will be reviewed next week. Commissioner Doyle said there was one change in the description. Chairman Hoffman asked her to clarify it. Commissioner Doyle said someone commented a hearing implies that is governmental, so they should call it a “meeting” instead. Chairman Hoffman said the proposal to put to a vote is to keep the language and requirement in the draft regulations, with one change, changing the word hearing to the word meeting and to offer as part of the final approval clarification of the process. Commissioner Flanagan made the motion, Commissioner Doyle seconded. The Commission voted 4-1 to approve the motion, with Commissioner Title voting against.

Chairman Hoffman said there are a few other issues. The biggest one is the deferral on the environmental issues, but he thinks they are in good shape to finish tomorrow and probably not consume the entire time available. He adjourned the meeting as of 3:50 p.m. The meeting will start tomorrow at 10 a.m. in the State House in room B-2. Executive Director Collins clarified the room has been changed to B-1.