



CANNABIS CONTROL COMMISSION

PUBLIC MEETING MINUTES

October 4, 2018 12:00 p.m.

Massachusetts Department of Transportation

10 Park Plaza, Boston MA

October 9, 2018, 9:00 a.m.

Massachusetts Gaming Commission

101 Federal Street, 12<sup>th</sup> Floor, Boston MA

COMMISSION MEMBERS IN ATTENDANCE:

Chairman Steven Hoffman

Commissioner Kay Doyle

Commissioner Jen Flanagan

Commissioner Britte McBride

Commissioner Shaleen Title

COMMISSION MEMBERS ABSENT: None

LIST OF DOCUMENTS

1. [Presentation](#)
2. [Executive Summary-NETA-MR281240](#)
3. [Executive Summary – 253 Organic – MCN281258-MPN281302-MRN281245](#)
4. [Executive Summary – Berkshire Roots Inc. – MCN281590-MPN281427-MRN281585-MXN281322](#)
5. [Executive Summary – Cultivate Holdings – MC281266-MP281305-MR281268](#)

Chairman Hoffman called the meeting to order at 12:02 p.m. Chairman Hoffman put the public on notice that the meeting was being recorded. Chairman Hoffman informed the public that the meeting was to be a 2-day meeting and will recess at 2:30p.m. and reconvene on Tuesday morning. He then summarized the agenda for today and Tuesday's meeting.

Chairman Hoffman went to the first agenda topic, the Executive Director's report. Executive Director Shawn Collins introduced a new staff hire. He introduced Jennifer Forsberg, the Commission's HR Generalist and gave a brief biography of her. Mr. Collins then discussed a new job description for the Commission's review, the position of Licensing Analyst. The position will report to the Director of Licensing and will assist with licensing tasks. The job will be posted as soon as possible. Commissioner McBride asked if we need to hire more than one Analyst. Executive Director Collins replied that only one Analyst was needed but staffing needs would be reassessed over time. Commissioner Title asked for more information regarding the "subject matter expert" aspect of the skillset desired in the position. Executive Director Collins replied that experience evaluating the substance of applications was important.

Commissioner Doyle made the motion to approve the job description and was seconded by Commissioner Flanagan. The job description was approved unanimously.

Executive Director Collins then described the current state of Licensing Applications and referred to the first slide in the presentation. Mr. Collins discussed the next slide which details the applications which are currently under review. These applications have submitted all required packets. Executive Director Collins then discussed the next slide in the presentation, which details the process timeline for how applications are reviewed.

Executive Director Collins discussed the county map detailing the total numbers of applications from each county in the Commonwealth.

Executive Director Collins discussed Agent Registration applications and the total number of submitted applications, as well as approvals. Commissioner Title asked why so many applications were withdrawn. Executive Director Collins replied that he did not know exactly why entities withdrew applications. Director of Licensing Kyle Potvin stated that he believed it was mainly due to duplicate applications being created. A slide detailing the demographics of agent registrations was discussed by Executive Director Collins. The next slide continues the breakdown of demographic data obtained from agent registrations. Commissioner Doyle remarked that it's early days for reviewing this data. Commissioner Doyle compared this data to the latest census data. Commissioner Doyle is disappointed that the agent registration pool is currently less diverse than the Commonwealth's diversity. Commissioner Doyle would like to continue to study why this is and possibly update regulations to spur diversity.

Commissioner McBride asked whether many of these employees are current RMD employees. Executive Director Collins replied that these agent registrations are employees of RMD's and they most likely had been working for those companies in the past. Commissioner McBride said that she wants to continue to collect data and think about how we can promote diversity down the line – possibly through regulatory change. Commissioner Flanagan said she would like to see how we can hold the industry accountable. Chairman Hoffman said that this topic would be

continually monitored and discussed. Commissioner Title agreed with Doyle in that this baseline data is important, but early, and that we need to keep an eye on this. Commissioner Title said that because RMD's did not previously have diversity and positive impact plan requirements, it's understandable, but need to see how this industry develops. Commissioner Title is appreciative of the staff for collecting data like this. This is a national service as well, because few states are collecting industry data like this. Chairman Hoffman asked if there were other questions or suggestions for demographic discussions on agent registrations.

Executive Director Collins had no further agenda items in his Executive Director's Report.

The next agenda item is to discuss final license applications. Chairman Hoffman identified the four licenses on today's agenda. The Executive Director then discussed the first license application.

The first license application is for Cultivate Holdings, #MCN281266, Cultivation, Tier 2. Executive Director Collins gave an overview of the Executive Summary that was before them. He reminded the Commission that provisional licenses were previously granted, and that the conditions to receive a final license has been satisfied. The initial inspection took place on September 18, 2018. Executive Director Collins acknowledged the work of the Inspections and Licensing teams. Inspections team found the facility to be in compliance with all applicable regulations. Executive Director Collins then gave an overview of their general security and facility features. Door locks could only be unlocked by employee badge, there is a panic alarm, and the required cameras. RMD maintains 35% of marijuana products will be reserved for the medical program. The Commission staff recommends granting final licensure to Cultivate Holdings with the following conditions: the entity may receive and process and grow marijuana, however, it may not dispense to the public until the Commission has conducted a final inspection and has received any applicable waivers from the Department of Public Health.

Commissioner McBride thanked the staff for their work and asked about the separation of RMD and adult use. First, in the report there was an inclusion of a picture which shows a sign separating adult use and medical products. Commissioner McBride stated that she believes the signage may be a little confusing to medical patients and would like to see new signage there. She asked how the Commission will know that 35% of products are being set aside for the medical marijuana program. Director of Enforcement Patrick Beyea stated that this will be confirmed on final inspection and through the seed-to-sale tracking software.

Commissioner Doyle asked what will happen when a relatively small number of retailers open and whether there will be any discussion of how retailers will handle the larger crowds. Mr. Beyea said there are discussions about that and entities plan to have extra staff on hand in the first few days. Commissioner Doyle asked if there may be police details involved. Mr. Beyea stated that they are in contact with local police departments regarding details, and other traffic handling issues.

Commissioner McBride asked a security-related question regarding limited access areas. What are the titles of the individuals who can access those areas? Mr. Beyea replied that he does have

the names and titles of those who will be allowed in limited access areas. Management positions would have access to those areas.

Commissioner Title asked how people may contact us in the future if they believe there are violations of regulations. Executive Director Collins replied that people are always welcome to call the Commission and that we will develop other ways to receive complaints.

Commissioner Title asked a second question regarding the investigation into the ownership of the company as well as how control of an entity is investigated. Mr. Potvin stated that the applicant must disclose the names of everyone with controlling interest of 10% or more. Those individuals must submit to a background check, attest to certain conditions, and must submit several documents. Commission staff reviews articles of organization, and business documents. Regarding requests for change of ownership, there currently is not one for Cultivate, but there are processes for doing that and can be discussed in future meetings should there be a need to update that process.

Commissioner McBride discussed the Responsible Vendor Training Program. She asked if we have reviewed any training materials from the entities. Mr. Potvin replied they do have to submit training materials. During the inspection, Mr. Beyea stated there was a discussion about how the training program would be conducted. If the training is not conducted, a report will be made to the Commission.

Chairman Hoffman then moved on to a final license application for New England Treatment Access and Executive Director Collins detailed the Executive Summary for it. No evidence has been discovered that they are not in compliance with regulations. He also discussed their general security plan. The applicant is compliant with the requirement that 35% of products will be reserved for the medical marijuana program. Transportation will be conducted by establishment employees and vans were inspected by Commission staff.

Executive Director Collins then recommended the final license be granted subject to the Commission's conditions.

Commissioner Doyle asked how they would ensure patients visiting the location would not encounter long lines competing with adult use consumers. Commissioner Doyle also wanted to know how patients would be accommodated. Mr. Beyea replied that patients can go to both sides of the facility and are brought in by employees. The applicant will have additional staff on hand and is in communication with local police and fire, and that the Chief of the Northampton Police was comfortable with the rollout plan.

Commissioner Title asked if there were any requests for a change in ownership. Mr. Potvin replied that there was not any request. Commissioner Title asked in general, for those operating as RMD's, if we have access to previous DPH inspection reports. NETA provided a copy of their last DPH inspection to Commission staff according to Director Potvin. Executive Director Collins also stated the Commission has a good working relationship with DPH and an understanding of how to acquire those records.

Commissioner McBride stated these entities must present records to the Commission. Executive Director Collins replied that there is.

Chairman Hoffman then recessed the meeting for 10 minutes. He called the meeting back to order at 1:11 p.m. Chairman Hoffman acknowledged the staff for their work in preparing the applications.

Chairman Hoffman asked for a motion to vote on final licenses. Commissioner Flanagan first made a motion to add two additional conditions to the final license. Commissioner Flanagan would like to receive copies of the training and educational materials being provided to employees and consumers. Commissioner Title stated she would like to see how those materials are being disseminated. Commissioner Flanagan amended her motion to reflect Commissioner Title's request. The motion was made by Commissioner Flanagan and seconded by Commissioner McBride. The motion passed unanimously.

Commissioner Title made a motion that requires Commission staff to review any contractual changes made by a business that may rise to the level of control. It was seconded by Commissioner McBride. Commissioner Doyle asked if this reflects the controlling aspect as defined in our regulations and Commissioner Title clarified that it did. The motion passed unanimously.

Approval of the final license application for Cultivate Holding, Inc. Cultivation Tier 2 license was then moved by Commissioner Flanagan and seconded by Commissioner Doyle. Commissioner Title stated that she respects that the Commission will not review host community agreements but that she believes she cannot vote in favor due to her opinion that the applicants had signed host community agreements not compliant with the law. The motion passed 4-0 with Commissioner Title in abstention and the final license was granted.

Commissioner Doyle moved to approve a final license for Cultivate Holdings Product Manufacture license and the motion was seconded by Commissioner McBride. The final license was granted by a vote of 4-0 with Commissioner Title abstaining. The final license was granted.

Commissioner Doyle moved to approve a final license for Cultivate Holdings Retailer and seconded by Commissioner McBride. The final license was granted by a vote of 4-0 with Commissioner Title abstaining. The final license was granted.

Commissioner Doyle moved to approve a final license for New England Treatment Access, LLC Retailer license and seconded by Commissioner McBride. The final license was granted by a vote of 4-0 with Commissioner Title abstaining. The final license was granted.

Chairman Hoffman then moved on to a review of the seven provisional licenses on today's agenda. Executive Director Collins discussed the Executive Summaries for Berkshire Roots, Inc. The company is applying for the following licenses: Cultivator Tier 2, Product Manufacturing, Retail, and Transporter with Other Existing ME License. The Commission has obtained the necessary information to grant the provisional licenses. Executive Director Collins recommended the provisional licenses be granted with conditions as described in the Executive Summary.

Commissioner Flanagan moved to approve a provisional license for Berkshire Roots, Inc. Cultivation license and was seconded by Commissioner Doyle. The provisional license was granted unanimously.

Commissioner Doyle moved to approve a provisional license for Berkshire Roots, Inc. Product Manufacturer license and was seconded by Commissioner McBride. The provisional license was granted unanimously.

Commissioner Doyle moved to approve a provisional license for Berkshire Roots, Inc. Retailer license and was seconded by Commissioner McBride. The provisional license was granted unanimously.

Commissioner Doyle moved to approve a provisional license for Berkshire Roots, Inc. Transporter with Other Existing ME license and was seconded by Commissioner McBride. The provisional license was granted unanimously.

Executive Director Collins then discussed the application for 253 Organics, LLC. He detailed information in their Executive Summary. He recommended the Commission grant a provisional license subject to a number of conditions as described in the Executive Summary as well as inspection.

Commissioner Title asked for a clarification on their diversity plan. Executive Director Collins replied that Commissioner Title's description of the diversity plan appeared correct.

Commissioner Flanagan moved to approve a provisional license for 253 Organics, LLC. Cultivation Tier 4 and seconded by Commissioner Doyle. Commissioner Title made a motion to add a provision to the motion requiring the applicant to resubmit a new diversity plan. The motion was seconded by Commissioner Flanagan. The motion passed unanimously. The motion to approve a provisional license was granted unanimously.

Commissioner Flanagan moved to approve a provisional license for 253 Organics, LLC. Product Manufacturer and seconded by Commissioner Doyle, subject to the additional conditions regarding a diversity plan. The provisional license was granted unanimously.

Commissioner Doyle moved to approve a provisional license for 253 Organics, LLC. Retailer and seconded by Commissioner McBride, subject to the additional conditions regarding a diversity plan. The provisional license was granted unanimously.

Chairman Hoffman made a motion to recess until 9 a.m. on October 9, 2018 and was seconded by Commissioner McBride. The Commission stood in recess until 9 a.m. on October 9, 2018.

Chairman Hoffman, recognizing a quorum, called the meeting back to order at 9:02 a.m. on October 8, 2018. The Chairman put the public on notice that the meeting was being recorded. The Chairman gave a recap of what the Commission discussed at Thursday's meeting and briefed the public on the rest of the agenda. The Chairman alerted the public that the Commission would go into Executive Session to discuss the procurement of office space and would adjourn from Executive Session.

The Chairman then turned to Agenda Item #6: Social Consumption. The Chairman summarized the history of the Commission's discussion of social consumption. Executive Director Collins then provided an overview of the staff's work on the topic of social consumption, based on the Commission's request. Executive Director Collins indicated that social consumption is predominantly a municipal issue nationwide. There are no statewide licensing mechanisms in existence; however, a number of states are reviewing draft regulations. Because social consumption is not widely permitted, there is not much by way of research and analysis in cannabis social consumption, however, some analogies can be drawn from tobacco and alcohol studies. Executive Director Collins mentioned that the Commission's Smoking Working Group is coming together and will meet later this fall.

The Executive Director continued to detail the report on social consumption. He explained the key findings from studies from the Netherlands and its social consumption businesses as well as various policies throughout the United States.

Chairman Hoffman then opened discussion to the Commissioners. Commissioner Flanagan said she appreciated the staff's work and wanted to discuss one concern she had regarding the new state law surrounding tobacco. She believes the Commission will need to look at that law and how it might affect any social consumption policy that is adopted. She then asked about the City of Denver's zoning policies and whether it was zoned in a way that included public transportation considerations. She is also concerned about public health and will be interested to see what the Smoking Working Group discusses.

Commissioner Doyle then asked about "bring-your-own-cannabis" (BYOC) consumption lounges. She wants to understand what the security measures are surrounding the products that are being brought in to the BYOC establishments. Commissioner Doyle is concerned with balancing equity issues and public health. If the Commission could not be satisfied that BYOC was safe, could the Commission mandate price controls on cannabis products that are bought on site to prevent the type of markup seen in alcohol bars. High costs of marijuana products would disproportionately harm populations who already cannot use some cannabis products in their homes, however, there may be economic reasons why that might not work. Commissioner Doyle also is concerned with the 2018 state law on tobacco and wants to understand better the relative dangers of second-hand smoke and vapor and how cannabis and tobacco smoke compares. Commissioner Doyle said that everything she has read seemed to point to vapor smoke as being safer, however, she would like more data. She asked how products are tested in other jurisdictions when the products include dinners, prepared foods, and other products. Commissioner Doyle then asked about the Special Commission on OUI and whether they would be offering recommendations.

Executive Director Collins replied that the OUI Commission is meeting regularly and anticipates compiling recommendations on social consumption. Executive Director Collins stated that he would look further into how testing is done at BYOC establishments in Denver, CO as well as price controls.

Commissioner McBride then offered questions about the barrier to entry for social consumption. She wants to get a sense of the costs that will be associated with these establishments. Operating a restaurant is costly and has thin margins. If the Commission believes there is a lower barrier to entry for social consumption, she would like to know why that is. Commissioner McBride also wants to understand what other jurisdictions with social consumption sites are doing regarding public safety issues; especially in regard to driving under the influence. Commissioner McBride asked what businesses are doing to prevent their patrons from operating under the influence and protecting the general public.

Commissioner Title expressed her gratitude for the staff's report on social consumption. She asked that the report include the Commission's vote to initially offer these licenses to limited groups including social equity applicants.

Chairman Hoffman asked about mixed-use licensing and whether there are examples around the world. Executive Director Collins explained that it's hard to find any example of a licensed establishment doing that, however, the practice may be occurring elsewhere.

Chairman Hoffman asked about BYOC businesses and the economics surrounding them. Executive Director Collins replied that staff would investigate the rules surrounding the municipal licensing and requirements placed on BYOC establishments around the country.

The Chairman stated that he would like the Executive Director to return to the Commission on October 14<sup>th</sup> with a timeline for answering the Commission's questions on social consumption. Commissioner Flanagan stated that she would prefer to give the Commission time to do the research without needing a timeline. Commissioner McBride asked staff to find the Commission's motion adopted from February 2018 regarding social consumption. Commissioner Title believes it makes more sense to work collaboratively with municipalities by creating a working group with cities and towns to investigate the public policy issues surrounding consumption.

Commissioner Title stated that social consumption policies will take several years to develop social consumption establishments. A change in state law is necessary before any business can open. Commissioner Title also stated that marijuana consumption lounges will eventually open and that mixed-use events are already operating. Commissioner Title believes that cannabis social consumption will be common in 10 years but suggested starting slow with a pilot program developed collaboratively with municipalities and to be accessible to equity applicants.

Commissioner McBride read the Commission's motion from February 2018. The motion stated that the Commission would draft regulations by February 2019. Chairman Hoffman reaffirmed his desire for a timeline from the Executive Director, consistent with the February 2019 deadline for draft regulations. Commissioner Flanagan stated that she does not want firm deadlines, because she wants to ensure staff has time to complete all the tasks they have.

Commissioner McBride asked Commissioner Title to clarify the pilot program and her timeframe. Commissioner Title suggested the Commission put out a call to convene a group of

local leaders from cities and towns who wish to opt-in. The February 2019 draft regulations deadline is not necessary, due to current state laws.

Chairman Hoffman asked why social consumption is not currently operable under state law. General Counsel Christine Baily suggested that the Commission convene a working group to discuss those issues. Commissioner Doyle expressed that there are technical issues surrounding the method for cities and towns to allow social consumption. Commissioner Doyle believes that the state would probably have to fix those issues prior to the Commission issuing any social consumption policy.

Commissioner Flanagan also believed that the state law regarding tobacco needs to be investigated regarding consumption policies. Commissioner Flanagan agreed with Commissioner Title's desire for a working group composed of local leaders.

Chairman Hoffman asked the Executive Director to develop a timeline by the next meeting as well as a proposal for a working group. Commissioner Flanagan reiterated that the public may offer their opinions on topics at any time and encouraged individuals to do so. Commissioner Flanagan also believes we need fact-based discussions surrounding these topics before policies are adopted.

Commissioner McBride thanked Commissioner Title for her working group proposal and believes it will be very helpful.

Commissioner Doyle stated to the public that they should not email her at her old state email address and that all comments should be directed to her new email address at the Commission.

Chairman Hoffman offered a motion to go into Executive Session and was seconded by Commissioner Doyle.

Chairman Hoffman: Aye

Commissioner Doyle: Aye

Commissioner Flanagan: Aye

Commissioner McBride: Aye

Commissioner Title: Aye

The motion is unanimously approved by the Commission. The Commission adjourned to Executive Session.