

CNMI Cannabis Commission
Regular Session Meeting Minutes
August 14, 2020

I. Call to Order

The CNMI Cannabis Commission was called to order by Chairwoman Nadine Deleon Guerrero at 10:37 a.m. on August 14, 2020, in the Commonwealth Casino Commission Conference Room, Saipan.

II. Roll Call/Determination of Quorum

Nadine Deleon Guerrero, Commissioner representing Saipan
Matthew Deleon Guerrero, Commissioner representing Saipan
Valentino Taisacan Jr., Commissioner representing Northern Islands
Journie Hofschneider, Commissioner representing Tinian (attending online)
Thomas Songsong, Commissioner representing Rota (attending online)
Joseph Deleon Guerrero, Special Advisor (SA) on Cannabis Industry for the Office of the Governor
Special Guest - Attorney General Chief Prosecutor, John Bradley
Special Guest - Attorney General Joint Prosecutor, Chester Hinds
Monique B. Sablan, Managing Director (MD)

III. Consideration and Adoption of Agenda

- Chairwoman made a motion to adopt the agenda with the following changes suggested by AG Keisha line-item B from executive session to regular session under new business line number 1 and subsequently moving the other items down the list. Treasurer seconded; no discussion; all members voted in favor, motion carried.

IV. Consideration and Adoption of Minutes of Prior Meeting

- Chairwoman made a motion to table the January 30th, February 6th, February 27th, March 5th, to the following meeting to allow time for members to review the minutes. Treasurer seconded it. No discussion. All Members voted in favor of the motion.

V. Public Comment

- SA, verified that there were no members of the public present; therefore, no public comments were made to the Commission.

VI. Old Business

1. Continued discussion on proposed amendments to PL 20-66 & PL 21-05

- **Chairwoman Discussion:**
Would like to focus on what amendments we want to get approved right away and then segregate them from the ones that we should trial before getting it amended.

As we already have the structure to get the industry going. Another aspect that is missing from the regulations are the penalties and fines.

Chairwoman reviewed the laws and was looking to see if there is any enforcement power outside of the Commission or the DPS. She explained that she did not see anything other than fines that need to be paid if in violation of the regulations; however, there does not seem to be any consequence if the fine is not paid. Chairwoman would like to work on this within the law so that it would give the AG's office the enforcement power to mandate the person to pay the fine.

○ **Members Discussion:**

Discussed the definition of marijuana which includes seeds which cannot be federally imported and exported. The Commission has been in discussion with customs to find a legal way to do so. AG, Chief Prosecutor, John Bradley wondered if some sort of coordination could be worked out with customs in order for people to import seeds for personal use by first going through the Commission to pursue a cannabis license and for the seeds to be catalogued that way. The Commission's role in regulating cannabis is the commercial business activity and so the law itself was constructed around Oregon's law. This includes a grace period where the Commission does not need to know where the seeds came from as long as it came from the CNMI (without cataloguing/tracking at the onset). The concern is not of the business regulatory side but on the criminal side for importing and exporting and transport of seeds. The Commission is following suit of other US jurisdictions; however, we are unsure of the criminal ramifications federally. The Commission has no authority over the importation of seeds. It is custom's responsibility and the Commission has and will continue to have conversations about this matter.

AG and members discussed authority of enforcement and in general, if it says it's a criminal violation, then it should be forwarded to the Criminal Division. Mr. Bradley mentioned that there are only a few crimes listed in the Act (cannabis) (ie. Smoking under 21 years of age, possession, etc) that would be escalated to the AG through some law enforcement agency. The crime would have to be identified, filed, and presented to the AG. Mr. Bradley continued to describe the steps the Commission would need to take to have AG review it which includes the Commission developing a citation process, receiving the court's approval for the violation to be filed and then forwarding it to the AG Criminal Division for review. This process is like how traffic pursues violations. The Commission needs to identify what agencies are involved in investigating these violations and delegate that authority. Ie. Commission employee, DPS, Drug Task Enforcement etc. Most violations would be civil matters as it relates to regulating the business.

Mr. Bradley gave examples of fact finding when it came to possession of a gun for example. The individual in question would not be arrested

immediately; an investigation would have to be conducted to determine if the individual has a permit to hold a firearm. Or if there is someone driving down the street, one would not assume that they did not have a driver's license until the facts are determined by questioning. If they did not have a license, in court, the case would most likely be dismissed if the individual did not have previous offenses and the court would direct them to obtain a license.

RECESS Chairwoman called recess at 12:10 p.m. Note: AG Guests left at this time.

IN SESSION Chairwoman called the meeting back to session at 12:22 p.m.

Members went over the list of proposed amendments and identified **1st round amendments:**

1. Homegrown Marijuana Registry Card – strike 4 CMC § 53012 (e) & PL 20-66 s 112 (e) The Commission shall not prohibit nor deny persons aged 21 or older from obtaining a homegrown marijuana registry card. Notwithstanding any law or regulation to the contrary, the Commission shall immediately implement a homegrown marijuana registry system upon the effective date of this Act. The absence of homegrown marijuana registry system regulations should not prohibit any person 21 years of age or older from the cultivation of homegrown marijuana, as long as the marijuana is cultivated in accordance with the guidelines defined in this chapter and the person obtains a homegrown marijuana registry card when made available by the Commission.

2. Amend Act s. 131 Examination of Books and Premises of Licensees (b) The Commission shall not require the books of any licensee to be maintained on the premises of the licensee. However, the owner or the agent of the owner must be capable of producing the books of the licensee within three hours of the Commission exercising its right to make an examination of the books.

Amend “within three hours” to “should produce documents upon request”.

3. Amend Act s. 134. License Terms; Licenses Issued for Less than a Year; Determination Fees. (a) Except as otherwise provided in this section, all licenses under this Act and renewals thereof shall be issued for a period of one year which shall expire on September 30 of each year

Amend “shall expire on September 30 of each year” to “shall expire one year from the date of license issuance”.

4. Amend 4 CMC § 53005 (u), PL 20-66 s. 105 (u) & Regulations § 180-10.1-045 Definitions – strike “seeds” from the definition

(u) “Marijuana” means all parts of the plant of the genus cannabis, the seeds thereof, and every compound, manufacture, salt derivative, mixture, or preparation of the plant and its seeds whether growing or not, regardless of moisture content, other than marijuana extracts. “Marijuana” does not include hemp, nor does it include fiber produced from the stalks, oil or cake made from the seeds of the plant, sterilized seed of the plant which is incapable of germination, or the weight of any other ingredient combined with marijuana to prepare topical or oral administrations, food, drink, or other product.

5. Earmarking regulatory fees or setting up a revolving account
6. Protection of commercial security plans

2nd Round amendments requires further conversation:

1. Sales tax – requires further conversation with
2. Civil penalty schedule– create framework similar to traffic
3. Use of public lands

VII. New Business

1. Discussion and approval of selection criteria as it relates to licensee approval process

- Secretary presented the concept of a lottery process for selecting applications in a transparent way for commercial licenses with limitations. This process was used in BC, Canada for liquor licenses with moratoriums.
- Highlight of Process per BC’s procedures:
 - Applications would be received and reviewed for administrative completeness and will notify the applicant; if incomplete, a deadline is provided
 - Once determined eligible/ineligible, the Commission will notify the applicant
 - Eligible applications will be entered into a lottery; an independent auditor conducts the lottery and the sequence of application processing is determined
- Chair requested that Secretary work on the procedures for the lottery process once if voted on and approved by members (voting to commence next Friday)
- If approved, must add to emergency regulations after licensing limitations (Vice Chairman to draft)
- Vice Chairman suggested to amend regulations to include the lottery process for selecting applicants for licenses that are limited
- MD inquired about applicants pending a business license and/or zoning if an application is received and the delay is no fault of their own. Secretary suggested in this case we would accept a receipt from their submission for a business license or zoning to demonstrate the process to acquire the document(s) has begun.

2. Discussion and approval of implementation of commercial application acceptance window

- To be determined (next Friday)

3. Discussion and voting of Resolution 2020-002 to expand policy description on the allowance of two or more different businesses to co-locate with a Commercial License holder under one establishment

- This draft was developed to establish licensing separation requirements to ensure a premises, subject to a license, is satisfactorily separated from areas that are unlicensed (to reduce the possibility of access to the premises by minors) and/or areas that are subject of a different license
- Secretary presented the draft resolution to the members:
Shared or adjoining facilities between an unlicensed business and a licensed premises
 - The licensee maintains ownership/leases/sub-leases the premises and has a right to occupy the premises;
 - Access/egress points to the premises are considered satisfactory by the Commission;
 - Separation between the areas is sufficient to determine a separate occupant load for the area(s);
 - Separation between the areas is fixed and immovable to ensure the size of the licensed premises is maintained;
 - Dividers or other separation between the licensed premises and adjoining business is sufficient to prevent exposure/access to minors;
 - All employees, contractors and licensee representatives present on the licensed premises must wear clothing or a badge issued by the licensee that easily identifies the individual as an employee, contractor or licensee representative.
 1. A licensee must record the name of every current employee and licensee representative.
 2. The licensee must record the name and date of birth for that individual.
 - Signage is posted informing the public of the boundaries of the licensed premises; and
 - Any other factors as may be relevant to public safety.

Shared or adjoining facilities between two licenses under the same ownership

- The licensee maintains ownership/leases/subleases the premises and has a right to occupy the premises;
- Access/egress points to the premises are considered satisfactory by the Commission;
- Separation between the areas is fixed and immovable to ensure the size of the licensed premises is maintained;

- The different operating conditions that are in effect based on the license type must be evident to the public;
- All employees, contractors and licensee representatives present on the licensed premises must wear clothing or a badge issued by the licensee that easily identifies the individual as an employee, contractor or licensee representative.
 1. A licensee must record the name of every current employee and licensee representative.
 2. The licensee must record the name and date of birth for that individual.
- Signage is posted informing the public of the boundaries of the licensed premises.
- Any other factors as may be relevant to public safety.
- Members agreed to approve the two options while the industry is starting up; each application will be considered meritoriously based on the entire application and supporting documents.
- The Commission is mindful of current economic hardships and those applicants interested in using an existing establishment or co-existing with another business.
- Members agreed to limit the number of businesses to one other (licensed or unlicensed, independent of each other) meeting the criteria to avoid enforcement complications, ownership issues and enforcement jurisdiction.
- Vice Chairman made a motion to approve Resolution 2020-002 with amendments discussed and agreed to in today's meeting; Chairwoman seconded; Discussion: Commissioner Songsong agreed with all points presented and agrees with the resolution; all members voted in favor; motion approved.
- Secretary to complete draft with minor amendments and circulate to members for

4. Expansion and approval of the definition of “canopy space” as it relates to commercial licenses

- SA - discussed properly defining canopy space and including vertical allowances vs floor space or footprint. Canopy space is not in the law other than the space of production area. It does not clarify whether that includes immature plants or if it is only mature plants. SA compared Oregon law and initially canopy space was defined by tiers for mature plants only. They did not specify immature. They have since amended their regs and put limitations on the immature plants for both indoor and outdoor. Only the footprint of the area containing the immature plants will be used to calculate the immature canopy. We would want to impose a limitation on immature so we can consider the licensee's proposal for where they are growing them on their premises. Without including immature plants under canopy space, we will not have this information.
- Members discussed a Cannabis Tracking System and how it would help licensee's self-regulate the amount of mature/immature plants and cataloguing.
- Members discussed potential situations where a licensee may wish to have more than one license under the production cultivation site. Perhaps someone owns the building and you own the site within the factory. Some warehouses are quite large and our maximum square footage is 5000 sq ft.. Some warehouses are 10,000 sq ft+. What kind of delineation would be required? Ie. Walls, fencing?

- The owner of the warehouse would give each applicant (each with their own leases/sub-lease) interested a security plan for the building. The applicant would be the one to incorporate the building security plan and demonstrate how they are separated to the commission with their application. If there are errors in their security plan, the responsibility is each licensee.
- Members agreed to table this topic as it requires further consideration.
- Vice Chairman submitted a letter of recommendation to zoning for amending their statutory definitions, primarily, ones that align with the cannabis license types. The request is for them to adopt the totality of the Commission's regulations into the zoning code for whatever decision they are making regarding proposed cannabis licenses. Some are currently contradictory such as the 300 ft. distance criteria from schools, churches, daycares, etc. when CNMI cannabis statute indicates a 500 ft distance. Jerry from zoning would review the letter and co-sign the letter if agree with it.

5. Discussion on limitations and restrictions of commercial application license approvals due to SLL 21-15

- Discussed earlier with lottery discussion.

6. Managing Director's Report

- MD summarized the number of applications currently received: No commercial applications received to date due to zoning issues; three Homegrown Marijuana Registry card applications received from Saipan which will most likely be approved on Monday (press release to come); none from Rota, none from Tinian to date.
- MD discussed the proposed FY 2021 budget reduction in 1501a (board account) from \$275,000 to \$181,800 (FY 2021) and 1501 account operations FY 2020 personnel budget was \$40,000 operations is \$9,000. indicated her salary will be reduced to \$38,000 if House Bill 124-145.
- Submitting a commercial application: If zoning authorization and/or business license is missing upon submitting application, the applicant needs to demonstrate that they have started the process and provide it later.
- MD has received several inquiries regarding commercial licenses.

VIII. Executive Session – no executive session.

IX. Adjournment

Chairwoman Nadine Deleon Guerrero made a motion to adjourn the meeting; Vice Chairman seconded; no discussion, all members voted in favor of adjourning; meeting adjourned at 4:08 pm.