



CANNABIS CONTROL APPEALS PANEL

Open Session Meeting Minutes

Wednesday, November 28, 2018
1:00 – 4:00 pm

State Personnel Board Building – 1st Floor Auditorium
801 Capitol Mall, Sacramento, CA 95814

Members present:

- Sabrina Ashjian, Chair
- Diandra Bremond
- Adrian Carpenter
- Sharon-Frances Moore

Staff present:

- Anne Hawley, Executive Director, Cannabis Control Appeals Panel
- Christopher Phillips, Chief Counsel, Cannabis Control Appeals Panel
- Cassandra DiBenedetto, Administrative Assistant, Cannabis Control Appeals Panel
- Catherine Ohaegbu, Assistant Director, Business, Consumer Services and Housing Agency

Presenters

- Heather C. Baugh, Assistant General Counsel, California Natural Resources Agency
- Greg Minor, Cannabis Regulatory Commission, City of Oakland

Public present:

- Unidentified

Summary:

1. Chair Sabrina Ashjian called the meeting to order at 1:00 pm. Catherine Ohaegbu called the roll. Panel members Sabrina Ashjian, Diandra Bremond, Adrian Carpenter, and Sharon-Frances Moore were present. Quorum was established.



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2. **Motion (Moore): Approve the minutes of the October 17, 2018 Panel Meeting as submitted. Seconded (Carpenter). Motion passed 4-0.**
3. Ashjian recommended moving Agenda Item #3, the Executive Director's Report, to after the informational presentations.

Heather C. Baugh from the California Natural Resources Agency gave an informational presentation on the California Environmental Quality Act (CEQA) regarding the Cannabis Industry.

Moore asked where the line is drawn for CEQA. Baugh replied that the Panel will need to be careful when using opinion. She stated that the court case *Friends of the Pocket vs. Sacramento* is an example of where the court looked to see if opinions were enough to substantiate the record.

Ashjian asked if any information is given to local jurisdictions to not be swayed. Baugh replied that locals are aware of the problem. Many people use CEQA to stop things that annoy them. The thinking is that it will stop the project. Political delay could cause a project to die.

No public comment.

4. Greg Minor from the City of Oakland Cannabis Regulatory Commission gave an informational presentation on local licensing, enforcement, and the social equity program.

Moore asked Minor to go over what is needed to qualify as an equity applicant. Minor stated that to qualify for the equity program, an applicant must have ownership (at least 50% of the entity), must not make more than 80% of the average income, and either has a cannabis conviction or lives in an area that has had high cannabis convictions in Oakland.

Bremont asked how Oakland markets to equity applicants. Minor stated that a lot of people are aware of the equity program. Oakland convened a summit six months into the application process, and the equity program has received a lot of media attention.



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Bremond asked how many loans they plan to give and how much an applicant can ask for. Minor stated that they received authorization for \$3 million to disburse. The website www.elevateimpactoakland.com has more information regarding the tiers. Eligibility is determined by how they can establish milestones. Minor is hopeful that it will be a revolving fund and anticipates an increase in funds from the Bradford bill (SB 1294).

Bremond asked about the low-income target population and their ability to obtain credit. Minor stated that they do not require a credit report to qualify.

Carpenter asked if conviction status refers to sales and distribution of marijuana. Minor stated that it is just described as a cannabis offense out of Oakland and it must be a conviction, not just an arrest.

Carpenter asked about the minimum number going to equity applicants and if they have met the target. Minor stated that it is required by ordinance. Half must go to equity applicants.

Carpenter asked if incubator companies have tried to take advantage of an equity applicant to get ahead in line. Minor stated that concerns have been raised about people taking advantage of equity applicants. Oakland requires operating agreements showing 50% ownership for incubator applicants. They have made companies revise operating agreements in the past.

Moore stated that she heard the process is difficult to navigate and asked if Minor has found that to be true, and if so, how has it been addressed. Minor responded that most critiques would apply to any other industry. The timing is consistent with other industries. The major critique has been regarding how long it takes to complete the application.

Moore asked what the racial breakdown of equity applicants is. Minor stated they do not keep records, but they will be required to do so with the Bradford Bill (SB 1294). Since the equity program has taken place, they have received an increase in calls.

No public comment.



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5. Anne Hawley, Executive Director, Cannabis Control Appeals Panel, gave an executive management report update to the Panel members.

CCAP Staff participated in a tour of cannabis businesses in Sacramento with Chair Ashjian. The tour gave them a real sense of the challenges with the regulatory process. Future tour dates include Los Angeles on December 12, San Diego on December 14, and Humboldt County on January 24-25.

Regulations: Christopher Phillips went over regulations.

Fiscal: CCAP Staff participated in a webcast training to learn more about FI\$Cal, the large financial IT system used by the State. Business, Consumer Services and Housing Agency assisted with getting CCAP online with FI\$Cal. CCAP will go live on FI\$Cal in January 2019. Hawley will provide more information when the time comes.

Budget/Accounting: CCAP Staff met with the Department of Finance and will provide budget projections during the next Panel meeting.

Facilities: The move-in date for the 400 R Street Panel office location will now take place in June 2019. They have not started construction on the office space. Hawley will send more information to Panel members and tour the location before the January Panel meeting. The State Personnel Board was helpful with IT equipment, and CCAP staff will continue to use the auditorium until moving to the new location.

CCAP Staff received training on Concur and will transition from using the Department of Consumer Affairs to in-house staff management of all travel bookings.

Personnel: Many applications were received after reposting the Attorney position. Interviews for the Attorney position will begin December 7. The Associate Governmental Program Analyst (AGPA) job posting closed with a large pool of applications, and CCAP staff plan to conduct the first round of interviews in December.

The legal secretary and legal assistant positions will post in December and interviews will be conducted in January.



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Purchasing Authority: The target date is now the last week in December for CCAP to receive purchasing authority. Hawley reached out to DGS to get temporary purchasing authority. This is affecting the cell phone purchase.

Budget Report: End of year budget report. All were appointed after the fiscal year and CCAP had few expenditures during that time. Agency incumbered:

- \$750, 000 in an architecture revolving fund
- \$145, 000 for IT and branding services.
- \$100,000 for accounting and HR services, DCA for website, office supplies, etc.

CCAP staff do not anticipate problems due to salary savings.

No questions from the Panel. No questions from the audience.

6. Chief Counsel Christopher Phillips provided an overview of the proposed regulation text to establish the Panel's procedures and timelines.

At the last meeting, the Panel voted to approve the text of the proposed regulations and to further adopt the text of the proposed regulations if no public comments were received. CCAP received three public comments, two of which were germane. Staff recommended a minor, non-substantive change to strike a phrase from proposed Rule 6000(g).

The Panel discussed three options: proceed with version 2 of the proposed regulations, as approved at the October meeting; consider and approve the recommendations presented by staff ("version 3") and adopt if there are no public comments received; or direct staff to further modify based on language crafted by the Panel itself.

The two germane public comments relate to proposed Rule 6000(g). Public commenters feared that keeping the text as-is would permit the unauthorized practice of law before the Panel.

Staff recommended the Panel approve the modified language and allow staff to initiate another 15-day public comment period, similar to last time.



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The two versions were discussed. Version 2 was the version of the proposed regulations adopted by the Panel at the October meeting. Version 3 is the newly proposed text with the recommended edit to Rule 6000(g). The proposed change strikes a phrase that could create ambiguity and lead to future litigation. The modification does not substantively change the meaning or effect of Rule 6000(g).

No live public comment was received during the meeting.

Motion (Moore): Approve the draft proposed regulation text as modified by CCAP staff and authorize CCAP Staff to initiate the required fifteen (15) day public comment period, and further, adopt the proposed regulation text as modified by CCAP staff after the fifteen (15) day public comment period has expired if no comments are received. Seconded (Bremond). Motion passed 4-0.

7. Executive Director Hawley proposed including a public speaking policy in the Panel Member Handbook.

Agency requested that CCAP staff put together a document regarding public speaking policy since more speaking requests have come in, and suggested a tool for guidance for what should or should not be permissible. Agency suggested CCAP staff create a policy that will protect Panel members.

Christopher Phillips stated that the policy is to protect CCAP. As judges, the members run the risk that there will be situations where recusal would be required. Making a public appearance beyond biographical information could lead to a Panel member being forced to recuse. If someone says anything, then it could lead to an *ex parte* communication. For example, Chief Justice Roberts' public comments recently caused a firestorm due to the appearance of no longer being neutral.

Bremond asked that if she is asked to speak as an academic, whether that would fall under the limited circumstances allowed. Phillips replied that it is allowed as long as it is not cannabis related. Bremond asked if "cannabis related" should be specified, or if it is implied in the policy. Phillips said the policy it could be edited to be clear.

Ashjian stated that her concern is that she would like to inform the public that this Panel exists and not push applicants back to the black market should they be denied.



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Ashjian suggested moving information to licensing agency websites. Hawley did not see information on the agency websites, but she will check again. Hawley agrees that it should be clearly defined on their websites that CCAP is an option for appeal, and that it would be good to do coordination with other partners. Hawley reached out to ABC Appeals Board regarding speaking engagements. They usually refer them to attorneys or the Executive Director does them, but the Board members do not do speaking engagements.

Ashjian wants to make sure the process is easy to understand.

Hawley mentioned that she will decline invitations or reach out to other agencies, and as more staff are onboard they will be more responsive.

Motion (Moore): Approve the proposed CCAP Policy on Public Speaking for inclusion in the Member Handbook with the addition on page 1 of “cannabis related” language. Seconded (Carpenter). Motion passed 4-0.

8. The public did not request to comment on items not on the agenda.
9. Future agenda items. No comments on future agenda items.

Hawley recommends not having a meeting in December. Next meeting will be January 2019.

10. **Motion (Ashjian): Adjourn the meeting. Seconded (Moore).**

Meeting adjourned at 2:38 pm.