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COMMONWEALTH of the NORTHERN MARIANA ISLANDS
OFFICE OF THE GOVERNOR

COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS
CANNABIS COMMISSION

A meeting of the CNMI Cannabis Commission will be held on **Friday, September 4, 2020, at 10:30 A.M.** at the Office of the Commonwealth Cannabis Commission Conference Room located at Ascencion Ct., Building #1341, Capitol Hill, Saipan.

AGENDA

- I. Call to Order
- II. Roll Call/Determination of Quorum
- III. Consideration and adoption of Agenda
- IV. Consideration and adoption of Minutes of prior meetings
- V. Public Comment

- VI. Old Business
 1. Continued discussion and Adoption of Emergency Regulations pertaining to selection criteria of limited commercial licenses, related implementation of commercial application acceptance window timeframe and lottery procedures

- VII. New Business
 1. Discussion on law enforcement training and development of standard protocols relating to public complaints and community outreach
 2. Managing Director's Report

- VIII. Adjournment

Copies of this notice and agenda have been posted at the Administration Building Entrance Hall, the House of Representatives Entrance Hall, and the Senate Entrance Hall.

Written comments on the agenda may be submitted to the CNMI Cannabis Commission, through the Office of the Governor, on or before the meeting date. Oral testimony may be presented during the meeting on Friday, September 4, 2020.

**CNMI Cannabis Commission
Regular Session Meeting Minutes
September 4, 2020**

I. Call to Order

Vice Chairman Matthew Deleon Guerrero called the CNMI Cannabis Commission's meeting to order at 10:34 a.m., which was held at the Office of the Commonwealth Cannabis Commission Conference Room located at Ascencion Ct., Building #1341, Capitol Hill, Saipan.

II. Roll Call/Determination of Quorum

Vice Chairman called roll of the commissioners:

Treasurer Valentino Taisacan, representing Northern Islands, was present;
Secretary Journie Hofschneider, representing Tinian, was present (teleconference);
Member Thomas Songsong, representing Rota, was present (teleconference).

Vice Chairman announced that four (4) members of the commission were in attendance and that the Chairwoman will be joining this meeting shortly, and confirmed quorum. Also in attendance were Commission Managing Director Monique Sablan, Special Advisor Joseph Deleon Guerrero, and AAG Keisha Blaise.

III. Consideration and adoption of Agenda

Vice Chairman asked if there is any motion to adopt or amend the agenda; Secretary motioned to adopt the agenda, seconded by Treasurer.

Vice Chairman motioned for an addition to the agenda in new business for *discussion on the recommended amendments to the Saipan Local Law 21-15 (zoning law)*, seconded by Secretary; all commissioners voted in favor to adopt the amended agenda, motion carried.

IV. Consideration and adoption of Minutes of prior meetings

Secretary motioned to adopt the March 10, 2020 minutes, seconded by Treasurer; all commissioners voted in favor to adopt the aforementioned minutes, motion carried.

V. Public Comment

Vice Chairman opened the floor for public comment; Vice Chairman later announced that no members of the public were present to offer comment.

VI. Old Business

1. Continued discussion and Adoption of Emergency Regulations pertaining to selection criteria of limited commercial licenses, related implementation of commercial application acceptance window timeframe and lottery procedures

Vice Chairman initiated the discussion about the commission's approved resolution that established limits on commercial licenses which was discussed in length in last meeting, under the goal of ensuring that the commission has adequate enforcement staff to manage whatever level of licensures the commission provides, as contained in the law/regulation.

Vice Chairman added that the question then came as to what would be the process by which the commission would review or allocate licenses if at any given time the number of licenses provided to the commission for approval exceeded the number of licenses available, and reiterated the example the Secretary provided on Canada's lottery process which is included in this emergency regulations.

Vice Chairman continued that the commission is specifically looking at amending part 300 under the license registration requirements by adding subsections 360 and 365; subsection 360 which is the initiation process which also adds on to subsection 355, Part B, which would create the requirement for a lottery should the allocation of licenses exceed the number of licenses available #!?...AAG Keisha Blaise interrupted to ask a question.

AAG asked the Vice Chairman if the application fee had to be paid first prior to entry into a lottery, Vice Chairman replied "yes." The AAG then responded that there would be an issue should that be the case, and explained that it could/would be technically defined as gambling if the commission accepts application fees and applicants are placed in a lottery for a chance to win a license. Vice Chairman asked if it was because of the word "lottery?" The AAG acknowledged the problematical use of the word "lottery" as one aspect, but also that the lottery license to be won has a monetary value and suggested an alternative word; although the commission can choose to continue as is, the AAG continued, it should seek the permission/opinion of the AG's office.

Vice Chairman felt that there seems to be some sort of nomenclature semantics with the analogy of the commission's license lottery system being perceived as gambling, and explained that non-license winning lottery participants whom the commission accepted application fees does not mean denial, but will not go through the application finalization process and will still remain in the commission's system as pending applications for a commercial license at a future date when license availability opens up again, so then those pending applications will be afforded another opportunity for their applications to

be adjudicated by once again participating in a lottery for a license. Vice Chairman additionally cited the administrative procedures act to which the commission either approve or deny, but can also hold and process applications. AAG responded that the lottery is still perceived as a gain in a sense.

Vice Chairman acknowledged that there are considerations the commission has to have thinking about this, and that the way it would work with limitations under the existing resolution and regulation is that once a number of applications have been received, and if the lottery (or the chosen word to replace “lottery,” e.g., selection process, randomized draw, etc.) is going to be initiated, it would be in the circumstance in which, for example, three separate applicants submits their applications at the same time prior to it being received and approved by the commission. So for example if it takes a week to take in an application and accepted as administratively complete for processing, then if within that week more applications are received greater than the number of allowable license limit prior to being approved by the commission, then that is when a lottery has to be conducted, and reiterated that the commission is unsure if it will encounter such a situation and that the limitation are on licensees and not licenses, so a single applicant/licensee can submit multiple applications for licenses.

Vice Chairman then asked the MD about the commission’s standing with applications in which she replied that there are several in the process including going through the zoning requirements, and a bunch of inquiries; but with limitations, to date the commission has three (3) applications for class III production from one (1) applicant.

Vice Chairman acknowledged the complexity of this process and that if there is going to be a challenge on whether or not we did it fairly, what the commission is attempting here is to ensure that safeguards are in place to provide for fairness, pursuant to Canada’s example of having an independent auditor involved, public inspection or public involvement in general to avoid any peculiarities in any of the results which is in the emergency regulation.

Vice Chairman continued with the second addition of subsection 365 in Part 300 of the emergency regulation stating that the commission shall receive new applications for commercial cannabis licenses within 120 days prior to October 1st of each year; after October 1st, no new applications may be received by the commission for licenses until by commission resolution of secondary license application window is established.

Vice Chairman added that this is where it’s agreeable to have it come forward through emergency regulation because the commission is unsure what the scenario would be after 120 days from now, that there is a need from an administrative and regulatory standpoint

to say give us the opportunity this year to manage the consistent and singular application process and application window, and should it be required in the following years, the commission can do a regular promulgation of regulations. But at the current moment, emergency promulgation will see how the available window and cost complications in the processing of applications; it's a trial run to see where the commission will proceed from thereon. Vice Chairman then asked if anyone has any discussion on it.

AAG Blaise mentioned that she previously discussed the emergency regulation with MD Sablan, and expressed that she doesn't necessarily see the emergency and asked why not go through the regular 60-day regulation promulgation process.

Vice Chairman responded that the 60-day process would be initiated at the point in which the register has been published, that's when the 60-day period would begin at the September registry at the end of this month, which would mean that the window for applications received by the commission would be open through October (approximately 30 days) and closed thereafter once the regulation is published.

AAG replied that it still doesn't seem to warrant an emergency. Vice Chairman followed through by indicating that the case is essentially that the commission wants to be able to adjudicate the petitions (licenses) that we have within a limited time cycle because they (licenses) all end in September anyway, which is also specified in the current law. If the commission processes applications through December, we have to either approve or deny them, in which case we're both trying to establish the regulation of existing licensees while receiving and adjudicating applications for new licenses at the same time.

AAG inquired if the commission anticipates acting on those maximums (adjudicating expiring licenses and new applications). Vice Chairman replied that is the point, we are weighing two things here - *trying to get the industry started* and also *regulate it*. So if we are regulating with a single staff and at the same time accepting applications on a rolling basis throughout the year for petitions that may or may not actually come to fruition because of the time frame; it makes sense for them (licensees) to have a window to get on at one point and it ends up at one point.

AAG understood the explanation, however, still doesn't feel the explanation warrants the emergency. Vice Chairman then asked what she feels is classified as an emergency. The AAG responded that her advice is for the commission to explain why it is an emergency under the statute; in reviewing that section of the statute (9104(b)), the AAG suggested that if the commission thinks it could proceed with its emergency regulation registration under *public interest*, it should adequately explain that in its filing.

MD Sablan joined in by briefly mentioning past emergency regulation publication, and stated that the *public interest* justification would be good, but that it would also be based on the administration of the commission as she is a singular staff and doesn't foresee a staffing budget in the immediate future to assist with the adjudication process within a limited window timeframe of expiring licenses and receiving new applications.

Chairwoman entered the meeting and assumed her post while Vice Chairman briefed her about the on-going discussion, and then continued with the emergency regulations stating that we are now in September and if the commission were to adopt the emergency regulation today, we would be telling people that the short window of opportunity in accepting applications closes at the end of the month, which is problematic.

MD highlighted that it could pose a problem as there are existing applicants currently going through the application requirement processes, including with the zoning requirement processes, who may not be able to meet the window timeframe for application acceptance by the end of the month; she added consideration for waiver for this being a special circumstance situation as the commission did not have the 120-day opportunity timeframe to launch the acceptance of applications until later on August 4, 2020, which should have started earlier on June 3, 2020.

Vice Chairman asked MD the current number of applications received. MD replied that the commission has not received any applications yet because of the zoning issue but are still currently going through the zoning processes at least for the payment certification of their zoning applications and scheduling for zoning public hearings, and that there are ten (10) applicants for commercial licenses which is anticipated to be received in 1 – 2 weeks.

AAG asked what are the limits on commercial licenses and if the commission will reach those limits. Vice Chairman stated that limitations are by license type as follows:

- Production Class 3 license are limited to three licensees;
- Tinian and Rota have no limitations;
- Production Class 1 no limit;
- Production Class 2 eight licensees;
- Wholesale licenses are limited to 2 licensees;
- Retail licenses no limit;
- Class 1 & 2 marijuana lounge no limit; and
- Laboratory license is one licensee, and that these are for individual licensees, not licenses.

Vice Chairman continued by stating should we wait for a problem to happen before we fix a problem. Special Advisor joined in by saying that we are doing this emergency regulation because the commission adopted limitations on licenses, and that we have to do this otherwise it becomes a problem if we don't have a way to fix it if license limitations are exceeded, and thinks that could be the justification for this emergency regulation. The AAG acknowledged but wants to ensure the commission is clear with justifiable reasoning for this emergency regulation.

Vice Chairman reiterated that he was talking mostly about the application window and that the commission may have to consider revising the use of the word "lottery," and that applicants not selected under this lottery process will remain pending with the commission until limited commercial slots become available.

Chairwoman voiced that the biggest issue is the window timeframe for applications while MD said she'll figure out when this current window will close for this current batch of applicants only because of the zoning issue that we're having, and that once the zoning law is amended, the window for applications can be closed and then consider placing this emergency regulation for adoption next year. Special Advisor mentioned that we are working on applications for Fiscal Year 2021 licenses since we license by fiscal year, not calendar year, and that the licensed one-year period actually begins when the license is issued and not when applications are received.

Vice Chairman added that the commission has to make a decision after this cycle of applicants to determine how much the commission can handle, or whether we should have commercial license limitations at all, including the fact that the commission's resolution on license limitations would need to be amended as well as it does not specify the lottery system. Special advisor pointed out that the basis for limitations in the first place is to address the commission's limited staff and resources until such time the commission assesses its capabilities and gets a handle on figures, e.g., number applicants/licenses, market interests/sales, etc.

Vice Chairman continued that placing limitations on the commission's opportunity to generate or obtain funds may limit the commission's growth, and has the potential harm us in the long term as we may miss-out on picking-up more people who may be available to initiate business activity or to employ people; and so the commission may want to reconsider its position on limiting licensees because we have no data to work with to adequately determine resources, or the man-hours needed to manage a single license and if the management of a particular license will change significantly between different licenses, or the number of licensees we will have or potentially have.

Vice Chairman proposed then motioned for inclusion in the next meeting's agenda the commission's consideration to vote on repealing Commission Resolution 2020-001 on license limitations taking into account today's discussion on the emergency regulation, application window, lottery integrity process, and unforeseen potential.

Chairwoman asked member Songsong if he had any question or comment on the discussion before moving to vote on the Vice Chairman's motion, in which he replied that he had none, however, expressed that he may need to come up with a pesticide resolution. Chairwoman agreed and asked member Songsong to lead that effort with pesticides and cannabis since he's experienced with agriculture and pesticide use.

Chairwoman announced her seconding the Vice Chairman's motion to include in the next meeting's agenda to vote on repealing Commission Resolution 2020-001 on license limitations; all commissioners voted in favor, motion carried.

Special Advisor stated that the commission needs to communicate this to the legislature because this would be a game changer now that the commission would need to address its staffing, training and resource needs, including having its cannabis tracking system in place.

VII. New Business

1. Discussion on law enforcement training and development of standard protocols relating to public complaints and community outreach

Chairwoman mentioned her meeting and discussion with the Department of Public Safety, Commissioner Guerrero and its Criminal Investigative Bureau captain, about its addressing public non-compliance with CNMI Cannabis law, and that the commission's goal is not to have people incarcerated, but to have them come into compliance with the CNMI cannabis law by having them apply with the CNMI Cannabis Commission, more so with the personal use home growers.

Chairwoman continued that the commission will continue its outreach with the community about compliance with the CNMI cannabis law, and if necessary, revisit potential repeat offenders to come into compliance; in order to do that, the commission must provide some form of informational training which we have set-up with law enforcement personnel on addressing their approach based on the commission's pro-compliance goal rather than incarceration.

Chairwoman cited MD Sablan's informational handbook proposed for the training session with DPS personnel relating to the CNMI cannabis law's offenses and fines, powers of the commission and law enforcement, and the types of citations or the possibility of a separate citation booklet for cannabis offenses; these are still in discussion as the commission continues its meeting with other law enforcement agencies, e.g., customs, ABTC, etc. Chairwoman additionally informed the commission about the possibility of a directive coming from the governor's office on the formation of a taskforce on cannabis with DPS, customs, and ABTC.

Chairwoman concluded with addressing member Songsong's previously raised concern about cannabis thieves and the need for legislative teeth to address their potential to disrupt commercial and personal home growers, that the DPS Commissioner suggested that cannabis thieves be taught to cultivate cannabis.

2. Discussion on the recommended amendments to the Saipan Local Law 21-15 on zoning

Vice Chairman mentioned that he, the Chairwoman and MD met with SNILD legislative Chairman JP to discuss issues with Saipan Local Law 21-15 in which JP expressed concerns and saw the need to rectify some inconsistencies, and that the legislature would provide the commission a draft of their amendments. Vice Chairman mentioned that MD Sablan offered amendments to their amendments and asked MD to apprise the commission on them.

MD proceeded with a general break-down of the legislature's proposed house bill on the Saipan zoning law and the proposed allowable cannabis production zones as follows:

- The 330 ft. distance from restricted zones, e.g., schools, etc., will be changed to 500 ft.;
- Micro-producers will be permitted use in all zoning districts;
- Production class I and II is permitted use for agricultural, rural, industrial and mix commercial;
- Indoor production is permitted use in village commercial;
- Outdoor or indoor production class I and II is conditional use in village commercial; and
- All class III production (indoor or outdoor) would be conditional use in agricultural, rural, industrial, mix commercial and village commercial which was based on its large scale production.

Special Advisor indicated that from a zoning perspective, classifying and zoning indoor and outdoor producers separately makes more sense regardless of the production classes in that indoor production would be expected to be more secure, self-contained, less public visibility, minimal impact to surrounding area or the public. Chairwoman and Vice Chairman came to that similar consensus while MD Sablan hinted that she'll have that considered in the zoning law amendment.

MD continued that the proposed amendments to Saipan zoning Local Law 21-15 did not mention anything about processor and wholesaler, but did change "cannabis marijuana" to "cannabis marijuana establishments" which covers all of the commission's licenses; it also included research certificate holder which will not be classified under cannabis/marijuana, but classified under home business.

To add on to the zoning law amendments with processor and wholesaler zones, the MD continued, processor zones, which was compared to a manufacturer, permitted use will be authorized within industrial zones while conditional use will be authorized within rural, village commercial and mix commercial; no authorization within residential areas. MD asked the Special Advisor if we should allow processor in the beach road area which the Special Advisor and Chairwoman agreed with incorporating the permitting of processors in zones that are also permitted for retailers as both have a mutual relationship.

For wholesale zones, which was compared to the wholesale zoning district, permitted use will be authorized in mixed commercial, beach road, industrial, and conditional use in village commercial zones.

MD reiterated the retail zones for permitting in village commercial, mix commercial, industrial, Garapan court yard, beach road and tourist resorts, same as lounge zones. MD further added an additional proposed amendment to the zoning law to include exemption from public hearing class I and II outdoor or combination of indoor/outdoor commercial production, which will fall under zoning's conditional use permit. Vice Chairman suggested adding to the zoning amendments that the new requirements be applied retroactively to existing applications.

RECESS: Chairwoman called for recess at 12:07 p.m.; meeting was called back to order at 12:17 p.m.

3. Managing Director's Report

MD Sablan went over the review/adjudication processes for the commission's conditionally approved applicants for a cannabis license for any suggestions the commission may have with the process, as follows:

- Application and supporting documents include zoning authorization, business license, and other permits, e.g., BEH (Bureau of Environmental Health) permit, where applicable;
- Commission may request additional supporting documents prior to processing;
- Application packages will be processed and reviewed for compliance with regulations;
- Application packages that are regulatory compliant will be scheduled for inspection for the proposed license and that initial inspections will only be considered once the application for the proposed license establishment is completed, e.g., structure or retail/cultivation space, etc.

MD included in the inspection process *that applicants may request for pre-inspection prior to the establishment being completed, and that pre-inspection will not be counted as the initial inspection.*

- If the applicant fails initial inspection, the applicant will be followed through (notified) about the regulations relating to the failed inspection;
- Depending on whether supporting documents were submitted prior to initial inspection, applicants who pass inspection but have not completed the supporting document requirement will be conditionally approved, and will have X number of days to submit supporting documents;
- If supporting documents are received and complete prior to initial inspection, the commission will receive the application packet with the initial inspection report, if inspection is compliant, for a final review;
- If applicant has been approved for licensure, the applicant will go through the payment certification process while being officially licensed;
- Awarded licensees must be in operation within 60-days of receiving official licensure; if necessary, the licensee may formally request for an extension for reasonable causes to be approved by the commission, and any extension may not exceed 120 days from licensure.

The commission was satisfied with the MD's process thus far. MD continued with her next item to report which was the issuance of five (5) homegrown registry cards with two (2) pending approval which are awaiting certain documents to complete application.

MD stated that she may have a special circumstance situation which she brought up with the AAG concerning land ownership document versus a 55-year lease agreement, in which she posed the question whether the commission can consider a 55-year lease as ownership within that lease term period being that sometimes the lessee is unable to get a hold of the lessor, as in the case when a lessor passed in which land ownership will eventually revert to the heirs upon lease expiration, and asserted that a 55-year lease should constitute as some form of ownership. Vice Chairman responded that it is.

AAG Blaise responded that her advice to MD was it would depend on whether or not the lessee is paying monthly or yearly, if the lease is paid-up or at least half paid-up, that is considered ownership; just the monthly or yearly rental gives the lessor direct possession much quicker, and obviously in that way perhaps it might be said in that communication between lessor and lessee to show some form of communication between both parties. Vice Chairman inserted just as long as the lease doesn't mention that it is not permissible to cultivate marijuana. AAG concluded that leases should be thoroughly reviewed to determine if most of the lease is paid-up or paid in full, and then it could be considered as ownership.

Vice Chairman asked MD Sablan if there was any interest in the class 2 marijuana lounge; MD replied none yet, but based on communicated interest with the commission or who are in the application process now, they are:

- Two show interest for producer license but no class specified;
- Three for producer class 1;
- Three for producer class 3;
- Three for class 1 lounge;
- Five for retail;
- One micro-producer;
- Two processor; and
- Two wholesale.

MD continued that the following licenses, not licensees, are semi-confirmed for the issuance of licenses, meaning that their establishments are about ready to conduct operations or business activity:

- One producer class 1;
- Three producer class 3;
- One processor;
- One wholesale;

- Three retail; and
- Two lounges.

Vice Chairman pointed out the lone micro-producer in which MD replied that they wanted to connect with a retailer or lounge instead of a wholesaler, however, she cited the regulations disallowing that, and that micro-producers must go through a wholesaler via an agreement between both parties. Vice Chairman asked that MD connect the two applicants, micro-producer and wholesaler.

MD concluded with describing her meetings with several agencies, e.g., DPS, SNILD and zoning, concerning commission matters, and her preparation of an article for public information purposes explaining the guidelines for cannabis licensing and to reiterate the homegrown cannabis guideline on the non- requirement of zoning authorization. In addition, she spoke of the governor's office donations of office equipment, supplies, paint, etc., valued at around \$10,000 for the commission, including her preparation of an educational/informational booklet on the CNMI cannabis law for law enforcement information on penalties and fines, the homegrown registry rules, etc., and her setting-up of a cannabis webinar program.

Hearing no other discussion, Chairwoman announced that she will advise the commission on its next scheduled meeting date.

VIII. Adjournment

Chairwoman motioned for meeting adjournment at 12:34 p.m., seconded by Secretary; all commissioners were in favor of meeting adjournment, motion carried.