

**CALIFORNIA PRIVACY PROTECTION AGENCY**

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**California Privacy Protection Agency Board Meeting  
June 14, 2021  
MEETING MINUTES**

**Board Members Present:**

Jennifer M. Urban, Chairperson  
Lydia de la Torre, Board Member  
Vinhcent Le, Board Member  
Angela Sierra, Board Member  
J. Christopher Thompson, Board Member

**Staff Present:**

Philip J. Laird, Deputy General Counsel at Business, Consumer Services & Housing Agency  
Tiffany Garcia, Deputy Secretary at Business, Consumer Services & Housing Agency  
Evan Joseph-Pinero, Staff Services Analyst at Homeless Coordinating & Financing Council  
Christopher Phillips, Chief Counsel at Cannabis Control Appeals Panel

**Agenda Item 1      Call to Order, Establishment of a Quorum, and Welcome**

Chairperson Urban called the meeting of the California Privacy Protection Agency (“CPPA”) board to order on June 14, 2021, at 9:00 A.M. Chairperson Urban made opening remarks and informed all attendees that the meeting is being recorded. Rules and procedure for making public comment were reviewed. Chairperson Urban provided a brief background of CPPA and thanked the board members and staff.

Moderator Evan Joseph-Pinero called roll. All 5 board members present. Quorum established.

**Agenda Item 2      Board Member Introductions**

Chairperson Urban began by thanking Governor Newsom for the appointment. She is a Clinical Professor at the UC Berkeley School of Law and works on privacy and security, intellectual property and other information issues.

Board Member de la Torre thanked Senate President Pro Tem Atkins for the appointment. She teaches at the University of Santa Clara School of Law and specializes in privacy and data protection.

Board Member Le is legal counsel for the Greenlining Institute. He thanked Assembly Speaker Rendon for the appointment and is honored to serve.

Board Member Sierra thanked former Attorney General Becerra for the appointment. She recently retired from the Attorney General's Office after 33 years. She was the chief of the public rights division that oversaw the consumer protection section and privacy and civil rights enforcement sections.

Board Member Thompson is the Senior Vice President for Government Relations at LA28, the organizing committee for the upcoming Olympic games. He thanked the other board members and Chairperson Urban for all the work she has already performed and the people of California for enacting proposition 24 and Governor Newsom for the appointment.

No Public Comment

**Agenda Item 3            Informational Presentation: Bagley-Keene Open Meeting Act**

Philip Laird, Deputy General Counsel at the Business, Consumer Services and Housing Agency ("BCSHA"), presented an overview of the Bagley-Keene Open Meeting Act and how it applies to CPPA. Board Member de la Torre asked for more information relating to what constitutes a meeting. Chairperson Urban asked about the agenda item titled "future agenda items" and why it is needed. Mr. Laird provided comprehensive responses.

Public Comments:

Garret Smith commented by asking a question about whom the board is allowed to discriminate against.

**Agenda Item 4            Informational Presentation: Administrative Procedures Act**

Mr. Laird provided a detailed overview of the Administrative Procedures Act ("APA") and noted its importance because of the rulemaking responsibilities of CPPA.

Board Member de la Torre inquired about the regulations that were promulgated by the Attorney General ("AG") and whether CPPA can build on those. She also inquired about pre-rulemaking activities. Mr. Laird informed the board that they can add to, amend, or repeal any regulation that the AG has enacted. Additionally, Mr. Laird recommended that the board engage in pre-rulemaking activities because the more public engagement beforehand, the better the rules and process will be.

Chairperson Urban asked how pre-rulemaking activities interacts with CPPA's authority to begin rulemaking. Mr. Laird stated that the board will need to have the official authority to enact rules when the final submission is made to the Office of Administrative Law ("OAL"); but, prior to that, official authority is not necessary.

Board Member Le inquired about the timeframe that CPPA must enact regulations, with the deadline being July 2022. Mr. Laird described the rulemaking process timeline and using rough math stated the middle of May 2022 is about when the package needs to be submitted to OAL to go into effect by July 1.

Board Member Thompson raised concerns about the timing. He asked specific questions regarding what OAL reviews at different stages of the process, and the typical review times for other sister agencies like the Department of Finance on various required documents. Mr. Laird provided detailed responses and recommendations on how long various processes take and when to initiate them in order to finish on time.

Public Comments:

Garret Smith again asked, “who do you discriminate against at these public meetings?” And, “who holds the board accountable and where is the transparency?”

Arsen Kourinian, data privacy counsel at Perkins Coie, congratulated the board members on their appointments. He emphasized the need for a back-and-forth dialogue to implement the California Privacy Rights Act (“CPRA”) in a seamless manner, similar to how it is set up in Europe.

### **Agenda Item 5            Administrative Report**

Tiffany Garcia, Deputy Secretary of Fiscal Policy and Administration at the Business, Consumer Services and Housing Agency, reported on the ongoing administrative work to create the structures necessary to set up CPPA and to hold this meeting. Ms. Garcia discussed the administrative and fiscal components of Proposition 24, the agency’s enabling statutes, annual appropriations, the role of BCSHA and other sister agencies such as the Department of Justice, Department of General Services and the Department of Consumer Affairs.

Board Member Thompson inquired about the staff from the AG’s office that worked on the initial set of regulations and whether they may be available to CPPA on an immediate and temporary basis. Ms. Garcia stated that CPPA would not be able to employ a Deputy Attorney General (DAG) because that classification is specific to the Department of Justice, but BCSHA can assist in discussing options with the AG’s office.

No Public Comments

### **Agenda Item 6            Initial Hiring Strategy, Timelines, and Duties**

Chairperson Urban described an initial plan to fulfill the board’s responsibilities under the CPRA that involves multiple components:

- **Duty Statements:** the CPRA directs the board to appoint an executive director. The board and agency need two types of expertise: first, substantive expertise (rulemaking and public education/guidance that the board will be engaging in, coordination with the AG’s office and enforcement); and second, experience in state agency management with knowledge of setting up a new state entity. It is possible that both sets of expertise reside in one person, but this may not be feasible. For this reason, Chairperson Urban proposed that the board advertise for two positions: One for an Executive Director that is responsible for substantive responsibilities and overall leadership of the agency, and one for a Chief Deputy Director of Administration that is

focused on the administrative operations and building out the agency. Staff can help identify top candidates.

- Due to the very strict timelines, hiring of leadership positions should happen without delay.
- Ultimately, the board will vote to appoint the preferred candidate for Executive Director. The board could use the same process for the Chief Deputy Director position, or the board could delegate that authority to the chair, it just depends on how much involvement the board wants.
- The draft duty statements in the materials describe the positions.

Board Member de la Torre inquired whether the board should hire a general counsel. Chairperson Urban agreed and indicated that the usual practice is for the executive director to make such a hire; however, if the board would like to take that responsibility, she would support that.

Board Member Sierra agrees that breaking up the two functions is a good idea; however, her preference is to get more input from the executive director on the hiring of the deputy director as well as on the general counsel. She suggested that the board hire an executive director that has some depth and experience in management. Chairperson Urban agreed that the executive director will have to have management experience and that should be included in the job posting. Board Member Sierra stated that the duty statements are very well done and suggested that the board add recruiting and hiring experience because that will be an important part of their function.

Board Member Le indicated that splitting the functions makes sense and inquired whether the board can get the posting out for the general counsel sooner rather than later. He asked what the process is for the board vet the resumes beforehand? Chairperson Urban stated that the short answer is the board can develop any process they want if it complies with Bagley-Keene. Her initial thought is to do the screening at an earlier stage and have only the top candidates come before the board for consideration. Mr. Laird agreed with that assessment. Chairperson Urban indicated that her preference is for the board to give clear direction so that she can work with staff.

Board Member Thompson believes this is an important decision and will have a lot of ramifications on how the board will operate moving forward. He sees there being an amount of time, maybe 6 months, where this is going to be a startup. The board needs to make sure that the candidate has the skills and leadership ability required of such a unique position and that the board should be thoughtful and deliberate in this process.

Board Member de la Torre agreed with Board Member Thompson and reiterated that the board must hire an executive director immediately. She asked if Mr. Laird could explain the differences between exempt and civil service positions and the benefits of each. Chairperson Urban explained that the executive director and the chief privacy auditor are both exempt positions. Ms. Garcia agreed that all positions except for the executive director and the chief privacy auditor will be civil service positions. Additionally, there is also the possibility of career executive assignment (“CEA”) positions, which are at-will.

Board Member de la Torre asked if there more flexibility for exempt positions? Ms. Garcia indicated that there is much more flexibility, for instance there are no minimum qualifications and there are no required hiring processes like for civil service.

Chairperson Urban asked if the general counsel is often a CEA position. Ms. Garcia replied yes.

Chairperson Urban asked how to create the CEA positions. Ms. Garcia replied that the CEA positions are a little more complex and will need CalHR approval and 30-day comment period after a justification is submitted.

Board Member Sierra suggested they may want to stagger the job postings and start with the executive director. She believes the key to success for the executive director is if they have demonstrated experience working with diverse groups of stakeholders and with other government agencies.

Board Member Le asked what the fastest way is to get the job posting out and whether another meeting to discuss edits is required.

Chairperson Urban provided the following summary of the conversation:

- There is broad consensus to move forward on the executive director position.
- Still need to determine if chair can work with Ms. Garcia on the possibility of retaining temporary support from the AG's office and others.
- With respect to the deputy director position, Mr. Le has indicated that there is still a lot of work to be done. Hiring power under the law would pass through the executive director as delegated by the board. However, then the deputy director could hire additional staff if delegated the proper authority.
- There are concerns about the executive director position in that they need to be the leader of the agency and will need to work with deputy director of administration. The hiring of the deputy position is something the executive director should be involved in. Using the staggered postings is a good strategy to resolve this problem. Also, the board could allow the executive director to appoint the deputy.
- Not much has been said about the process for seeking help from other offices but she believes the board is in favor of seeking such help.
- Duty statement for the executive director should make clear that hiring will be a large part of the job, especially initially (same for the deputy director of administration). Characteristics necessary for the job include management experience, ability to work with stakeholders, and experience working with or within government agencies.
- There are two ways (at least) to accomplish:
  - The board can delegate the authority to the chair to move forward with the hiring process for the executive director.
  - The board can deliberate duty statement language during this meeting.

Board Member Thompson thanked the Chair and said it was a great summary. There is tension here between speed and permanence. I think we need to post the executive director immediately. He inquired about what type of general counsel CPPA will have, i.e., one that is a specialist in the CRPA or one that is truly a general counsel that will help with employment law, etc.? Seems like a 3-month process, at a minimum, to hire an executive director and because of that timeline, the board should proceed with hiring the other two positions (chief deputy and counsel) as well. Also interested in getting someone with experience from AG or on a temporary basis to get going as soon as possible.

Board Member de la Torre thanked the Chair for her hard work and thoughtful analysis. Her hesitation on the chief deputy director position is that if it is a CEA position, there will be an added layer of delay

due to CalHR approval processes. She believes moving fast with the executive director position and staggering the others is the best way forward.

Chairperson Urban agreed that the CEA positions will require additional process, so the staggering is already built in. She asked if the board is comfortable with proceeding in that manner.

Board Member de la Torre indicated that she believes the general counsel position is important and that the board should move forward with that posting immediately. She is unfamiliar with the deputy director position and has some hesitation with it.

***Addendum from September 7–8 Board Meeting Discussion: Ms. de la Torre clarified that, in her view, all leadership positions should be CEA positions. Ms. de la Torre also clarified that positions should be posted as soon as possible.***

Chairperson Urban stated that the model for the deputy director position was based on the Fair Political Practices Commission (“FPPC”).

Board Member Sierra indicated that she is comfortable with the natural staggering of the three positions. She is also in favor of exploring with the AG’s office to utilize some of their expertise and experience although she believes there may be some limitations on temporary employees.

Board Member Le indicated that he wants to get the job posting for the executive director out today, if possible. He asked if a motion can be made to delegate that power to the chair to work with Ms. Garcia to make that happen.

Chairperson Urban indicated that the board could work on edits together, or the board can allow her to make edits based on the board’s feedback. Also, the board can delegate to her to work with BCSHA on exploring options with AG’s office to get their assistance. However, there are likely some practical limitations on what the AG can provide.

Board Member Le asked about the next steps once the board delegates the task to the chair. What can the other board members do to help?

Chairperson Urban proposed that she takes this conversation and use it to modify the posting for the executive director and consider all qualities that the board has stated are necessary for that position and work with Ms. Garcia and other appropriate staff to get it posted as soon as possible. Then work with Ms. Garcia to get the appropriate package to CalHR for the chief deputy director of administration position set up, as well as the general counsel position if that is what the board wants. Staff will help her vet the candidates for the executive director position before the next meeting. The Chair will present the top candidates to the board at the next meeting, and the board can deliberate and make a decision then. Also, the board may want to conduct more interviews. In parallel with that process, the Chair would work with Ms. Garcia to collaborate with the AG’s office on what opportunities there are for support on the rulemaking process. The board can also create subcommittees to work on some of these aspects better distribute the workload.

Mr. Laird agreed that the chair’s proposal is an appropriate form of action for the board to take.

Board Member Le added that he would like the duties for the executive director to include an intersectional lens on privacy and how privacy affects different populations.

#### Public Comment

Becca Kramer Mauder on behalf of ACLU California Action. It is important to understand privacy issues through an equity lens to fully understand the issue. She would like to encourage the board to ensure that staff leadership of the new agency be grounded in an equity approach to privacy matters.

Chairperson Urban asked if the board is comfortable with adding an intersectional equity lens to the job description?

Board Member Thompson indicated he is comfortable with including that qualification. With respect to additional qualifications, operational experience with midsize governmental, people skills, inclusive and collaborative with stakeholders are all important qualifications. He remains concerned about how long it will take to get the executive director hired. Are there resources out there that we can leverage to get a senior staff person in place while these hiring moves happen?

Chairperson Urban described the unique way that this board is being created in that the chair position has a lot of work to do at the beginning to act as an initial administrator. However, if a temporary senior staff person is possible, she is willing to do whatever the board wants. Ms. Garcia indicated that she is happy to consider anything the board wants but recommend investing the time and resources in hiring an executive director. The earliest would be end of July to consider applications.

Board Member Thompson asked if a 3–4-month timeframe is correct on getting someone hired. Ms. Garcia – yes. Board Member Thompson indicated it is his preference to pursue some temporary staffing, but is okay if the board wants to go a different direction.

Board Member Le recognizes that staff on loan could be a good fix for the interim.

Board Member de la Torre asked if it is possible for some of these items to be delegated to another member of the board? Chairperson Urban replied that by statute, the board can delegate authority to her and to the executive director. Mr. Laird stated that it depends on the type of delegation. The subcommittee structure could work for some of these topics. Since there is not really an “action” that the subcommittee takes. Board Member de la Torre said there is a need to have someone take some of the burden off of the Chair. Chairperson Urban said the board cannot delegate authority to a subcommittee to act, but the subcommittee can be utilized in an advisory way.

Board Member de la Torre referenced the CRPA’s single delegation wherein the board can delegate authority to the chair and to the executive director. She asked Mr. Laird if that means the board is limited to only those two delegations or is it more open ended. Mr. Laird indicated that Ms. de la Torre is correct in the explicit language of the CRPA, but would like to further research whether the delegation authority is limited to the express language or whether it is more open ended. Board Member de la Torre asked for that research to be done and for it to be presented at a future meeting.

Chairperson Urban formulated the following language in asking for a motion:

**“The board agrees to adopt the following components of a hiring plan. First the board delegates to the chairperson of the board the ability to modify the duty statements in the materials today and to create a job description that includes the required components discussed by the board in this meeting, and to follow required CalHR processes to get that position posted. When the position is posted, if there is not an intervening board meeting, the chair is delegated to work with staff to review initial applications and to determine a pool of candidates for the board to consider in a public meeting in closed session, for the board to interview candidates and eventually to deliberate upon and choose a candidate for the position of executive director. The chairperson is further delegated to begin the process of establishing and gaining approval for two CEA positions. The first being chief deputy director of administration, described broadly in the duty statement and in the materials for today with the modifications discussed in the meeting today. The second being a general counsel for the CPPA. This will entail paperwork required by CalHR modifying the duty statement for the deputy director of administration, developing a job posting for the deputy director of administration, developing a duty statement for the general counsel, and developing a job posting for the general counsel. The Chair is also requested to work with staff to discuss with the Attorney General’s office what the possibilities are for temporary or loaned staff to assist the agency in its work as it is being built.”**

Board Member Le moved.

Board Member Sierra seconded.

Board Member Thompson asked if the intent was to limit the temporary staff to the AG’s office.

Chairperson Urban said that was not her intent. She asked if her motion were **amended to not limit temporary staff from the Attorney General’s office, if Board Member Le would make the motion again.**

Board Member Le agreed and moved on the amended motion.

Board Member Sierra seconded.

Roll Call Vote Taken. **Motion approved 5-0.**

Meeting recesses at 12:05 P.M. for lunch.

Meeting reconvened by Chairperson Urban at 12:50 P.M.

Moderator Evan Joseph-Pinero called roll. All 5 board members present. Quorum established.

### **Agenda Item 7            Board and Agency Policies and Practices: Delegations of Authority for Limited Administrative Functions**

Chairperson Urban introduced the intent behind the delegations. Signing contracts, hiring, operationalizing the agency are all needed before an executive director is hired. She shared her screen to show the delegation of authority drafted by counsel and read the proposed delegation. Explained the idea behind the delegation is to allow the Chair the ability to operate and get the agency going. The hope is that once an executive director has been hired, the executive director will be handling all of these day-to-day things.

Mr. Laird discussed the lack of staff and true need for this delegation to establish clear authority for someone to be able to act on behalf of the board. This is very much aligned with other state boards.

Board Member de la Torre asked how will the board be informed of decisions made between meetings; will the chair inform the board? Chairperson Urban responded yes, the chair will report back on activities



at every board meeting, or others would report if they were the correct person (i.e. Ms. Garcia). Mr. Laird added that it is appropriate for the reporting back to be done at a noticed meeting according to Bagley-Keene.

Board Member de la Torre asked about the timing of the delegation once the executive director is on-boarded. She suggested a sunset for the delegation once the executive director is hired. Other than that concern, she is comfortable moving forward with the delegation.

Board Member Thompson suggested possibly limiting the time limit on the delegation or the cost authority.

Mr. Laird mentioned that the board has absolute flexibility to carve out the parameters of the delegation. The board can also set it up so that the delegation automatically vests in the executive director when hired, or revisit when the hire is made.

Board Member Sierra stated that she liked the delegation's flexibility and is comfortable with it. She also agrees that the board will want to revisit the delegation once the executive director is hired. She prefers to revisit rather than building in automatic vesting in the new hire.

Board Member de la Torre suggested leaving the delegation as-is and then revisit it every meeting.

Chairperson Urban asked the board whether she should include the chief deputy director position in the delegation. [multiple head nods in the affirmative] Chairperson Urban then edited the delegation language being shared on the screen to include the chief deputy director as a carve out from the chairperson's authority to hire without final approval by the board.

Chairperson Urban asked Board Member Thompson about monetary thresholds. Board Member Thompson stated that he is comfortable with the chair determining or using her discretion to decide what to report to the board.

Board Member de la Torre asked if the chair intended to select the location of the agency using this delegation.

Chairperson Urban stated that her plan is to either develop options for the board to consider at the next meeting or to create a subcommittee to work on the details. This topic will be put on the next agenda. With respect to the monetary threshold raised by Board Member Thompson, she is concerned that there may be a one-time large expenditure relating to real estate and that a limit based on that would be rendered meaningless for day-to-day operations.

Board Member Sierra stated that the location of the agency is also important with respect to the job posting for the executive director. To clarify, she asked the chair if the delegation will be exercised just for exploratory purposes (with respect for location of the agency).

Chairperson Urban said yes, absolutely. I do not want to make that decision by myself, the delegation is just for exploratory purposes. To summarize, there are three options on this delegation. First is to leave it as-is, second is to include monetary limitations and the third is to include time limitations.

Board Member de la Torre suggested it makes sense to revisit the delegation every meeting.

Chairperson Urban asked Mr. Laird to help revise the delegation to reflect the meeting-to-meeting time limitations.

Mr. Laird stated, “the delegation shall expire upon the next noticed regular meeting of the board.” He also indicated that the expiration of the delegation could be addressed in the motion.

Board Member Thompson asked if the delegation could automatically vest in the executive director upon hiring if it happens between meetings.

Mr. Laird stated that the executive director will be hired at a regularly noticed meeting, so the delegation could be considered at that time.

Board Member Le is in favor of whatever solution that provides the most flexibility.

Chairperson Urban proposed that the delegation be amended to reflect the meeting-to-meeting idea.

No Public Comments.

Chairperson Urban asked for a **“motion to accept this delegation of authority, as amended, according to our discussion today, so that the delegation of authority to the chair extends only until our next board meeting and then must be discussed and renewed.”**

Board Member Thompson moved.

Board Member Le seconded.

Roll Call Vote Taken. **Motion approved 5-0.**

**Agenda Item 8 Board and Agency Policies and Practices: Conflict of Interest Code**

Mr. Laird described the law that every agency must have a conflict of interest code. The draft has been reviewed and pre-approved by the FPPC. A vote today is to send this out for public comment. There will be a 45-day comment period. After that period, it will be brought back for final approval.

No questions or comments from board.

No public comments.

Chairperson Urban asked for a **“motion to approve the COI code to go out for comment”?**

Board Member Sierra moved.

Board Member Le Seconded.

Roll Call Vote Taken. **Motion approved 5-0.**

**Agenda Item 9 Board and Agency Policies and Practices: Member Handbook**

Chairperson Urban introduced the board member handbook and described it as a basic draft. She indicated this draft will need to be revised and updated in the future but is a starting point for discussion. She mentioned that all the provisions in the draft were taken from various other board member handbooks so they may not be totally appropriate for CPPA. The “communications” section of the handbook was referred to as one that will need specific tailoring.

Board Member Le asked a question about when, or at what point, does an individual board member's communication become "speaking on behalf" of the board?

Chairperson Urban said that future iterations of the handbook should provide more granular guidance on this topic; however, she suggested that if the topic of discussion is one that the board has jurisdiction over, then the board member should offer a disclaimer when publicly speaking that their views are their own and not a position of the board.

Board Member de la Torre raised concerns about the language contained on page 8 that it goes beyond the intent of the provision and would likely require her to get approval before authoring a paper on privacy.

Chairperson Urban agreed and suggested maybe removing the subordinate clause "under the jurisdiction of the board..." (page 8, under Board Member Written Correspondence and Mailings, lines 2-3, "..., or regarding matters under the jurisdiction or responsibility of the board.")

Board Member Thompson proposed going a little further because it is appropriate for board members to be able to voice opinions and express views about what we think, as individual members of the board and not the entire board as a whole. He would like to go through all of the language to make sure this sentiment is consistent throughout.

Board Member de la Torre stated that she wants more time to review the handbook before having to vote on adopting it. She asked whether a specific provision on page 4 is a separate delegation to the chair.

Mr. Laird indicated that the adoption of this manual could be considered a delegation of authority.

Board Member Thompson agreed with Board Member de la Torre that he read that provision to be a delegation of authority as well, especially relating to subcommittees. He would like input on subcommittees.

Chairperson Urban stated it was not her intent for these provisions to be separate delegations of authority and that she understood these provisions to reflect regular practices.

Board Member de la Torre asked to have additional time to review the handbook.

Chairperson Urban proposed to gather specific questions that board members would like to be answered or changes that may be considered. She and Mr. Laird could revise accordingly for consideration at the next meeting.

Board Member Le supports that approach.

Chairperson Urban cited the change that Board Member de la Torre suggested and asked for any other specific issues.

Board Member Thompson identified the following:

- On page 4, are these exclusive delegations (regarding subcommittees)?

- Board members should be able to freely discuss their position, even if it dissents from an official board position, as long as they clearly identify that it is not the position of the board, but their own.
- On page 7, bullet 2, general rules of conduct, cannot speak or act on behalf of the board without proper authorization.
- On page 7, bullet 3, that board members shall not engage in personal efforts that would promote their own views when in opposition to the position of the board.
- Dissenters should be able to speak.
- On page 8, under “general”, board members should be able to speak to the actions of the board without permission.
- Generally, board members need to be able to engage in a robust public policy debate and be in communication with, and accessible to, interested parties, and to the extent there is anything in the handbook that restricts this idea is of concern.

Chairperson Urban asked Mr. Laird how they can include the CPUC handbook in the meeting materials to distribute to all board members. Mr. Laird indicated that any documents brought to the attention of the board during a meeting is a public document and may be disseminated.

Board Member de la Torre suggested de-prioritizing the handbook to give them all more time to review it as well as allow for more focus on the time-sensitive tasks such as hiring an executive director and beginning the rulemaking process.

Board Member Le suggested that handbook revisions might be a good topic for the first subcommittee.

Chairperson Urban proposed that she and Mr. Laird take these concerns and revisit at a future meeting. She further proposed that the board take a vote on one small section of the communications policy that will clarify a board member can speak publicly as long as they make clear they are not speaking for CPPA or for the board of CPPA.

Board Member Sierra agrees that board members should disclaim their statements as their own.

Chairperson Urban asked for public comments.

#### Public Comments

Kelly V congratulated everyone on their appointments. She asked where Mr. Laird is from. She asked where she can find the meeting materials and the CPUC document discussed.

Chairperson Urban summarized that there are several changes identified and issues to be researched. The chair and Mr. Laird will work on those issues before the next meeting and that no action will be taken on the handbook at this time.

Chairperson Urban proposed that a **motion be made that the board affirm its understanding that board members may speak in public venues and public forums as long as they made clear that they are not speaking for CPPA or for the Board of CPPA.**

Board Member Le moved.

Board Member Sierra seconded.

Roll Call Vote Taken. **Motion approved 5-0.**

### **Agenda Item 10      Subcommittees of the Board: Discussion and Assignments**

Chairperson Urban described the background and identified three subcommittees and their make up:

- Regulations – charged with advising the board on upcoming rulemaking. Could include information gathering. Proposed that it is comprised of Board Member de la Torre and the chair.
- Public Awareness and Guidance – CPPA has a number of duties, including promoting public awareness and guidance. See Civil Code, § 1798.199.40d-f. Guidance for consumers and guidance for businesses. Risk assessments and reports. To be comprised of Board Member Le and Board Member Thompson.
- Startup and Administration – charged with working with BCSHA and AG to understand the administrative issues as necessary to prop up the new entity. To be comprised of Board Member Sierra and the chair.

Chairperson Urban indicated that some of these functions would be superseded by the new executive director.

Board Member de la Torre's initial reaction is that the board needs to think about timing. What does the board need to do now and what can be done in the future? Maybe guidelines are not necessary yet. The board should maximize its initial impact. Maybe two committees on rulemaking rather than just one. Everyone should participate in the process and think about our various backgrounds and how those align with our duties.

Board Member Sierra agrees that more than one subcommittee on rulemaking is appropriate because of the tight timelines and amount of work to do. She is happy to work on the startup and administrative committee.

Board Member Le asked if there will be any staff resources to assist with the subcommittee work.

Chairperson Urban stated they have been working closely with BCSHA and the board will be relying on them for help until it can get dedicated staff.

Board Member Le asked the chair to review the three subcommittees to better understand the deliverables. Chairperson Urban shared her screen and slides to review the three subcommittees.

Board Member Thompson inquired about the ability of a subcommittee to engage in dialogue, ask questions, etc., in a way that a quorum cannot at a public meeting.

Mr. Laird stated that if the subcommittee's public meeting is properly noticed, then everything is okay, and all board members can participate and engage. If not properly noticed, then any members not on the subcommittee can attend, but should not participate.

Board Member de la Torre asked if it would be helpful to summarize the AG's process on their pre-rulemaking activities?

Chairperson Urban cautioned that the information is likely too far beyond this agenda item and would be most helpful at the next board meeting.

Mr. Laird indicated the discussion is probably okay, to the extent it will inform how a particular subcommittee is formed and its parameters.

Board Member de la Torre reviewed the AG's process on rulemaking.

Board Member Thompson believes the questions posed to the public during the information gathering stage needs to be focused and narrowly tailored.

Chairperson Urban asked if anyone wanted to discuss the subcommittee assignments.

Board Member de la Torre indicated that a high priority for the third subcommittee is the location of the agency.

Board Member Thompson is comfortable with the structure of the proposed committees with the caveat that the regulations are a high priority and a big task that should likely be divided amongst more than one subcommittee. Also, he asked whether the lack of a location will delay the duty statement being posted for the executive director position?

Ms. Garcia said that a duty statement can be amended at a later date and the lack of a headquarters location should not be a barrier to getting the job posted.

Board Member Le asked if the board could decide the location of the agency at this meeting.

Ms. Garcia is confident that the job posting can move forward at this time and the location issue can be resolved at a future date.

Mr. Laird indicated that the board could revisit agenda item 6 for hiring strategy if they wanted to fit in this discussion relating to location.

Chairperson Urban indicated that the first priority for the administration subcommittee is to sort out the location.

Board Member Le recommends handling the location issue now.

Mr. Laird recommended concluding this agenda item and then revisiting agenda item 6 to continue this discussion.

Chairperson Urban provided the following summary: we are broadly okay with the subcommittee plan. Just how far a subcommittee can go beyond fact gathering and recommendation is something that will be vetted and revisited at the next meeting. There are no objections to the committee assignments.

Board Member Le described his priorities for the subcommittees. He would like to make sure the agency does not consider privacy in a vacuum and to understand how it can be used for discriminatory purposes in algorithmic bias. Impact assessments for high-risk industries and the audit requirements, like who is subject to the audits.

Chairperson Urban asked for public comments.

Sheri Porath Rockwell, privacy chair of the CA Lawyers Association and privacy and cybersecurity associate at Sidley Austin. The CA Lawyers Association is equipped to help and can reach thousands of lawyers and is here to help and support the board and new agency.

No other public comments.

Chairperson Urban indicated that there will be a 10-minute break and then the board will reconsider agenda item 6.

Meeting recesses at 3:25 P.M.

Meeting reconvened by Chairperson Urban at 3:38 P.M.

Moderator Evan Joseph-Pinero called roll. All 5 board members present. Quorum established.

Chairperson Urban recalled agenda item 6.

### **Agenda Item 6 Initial Hiring Strategy, Timelines, and Duties**

Board Member Sierra stated that it will be helpful to determine the board's direction on the location of the agency. Given that the agency will have around 50 employees, and an enforcement directive, it makes sense to her that there should be multiple offices. She would hate to limit the search geographically because of the need to find a great candidate. Maybe a northern CA office, like in Sacramento, and a southern CA office.

Board Member Thompson asserted that an existing organization can better work remotely than a new one. He believes the board should be sensitive to the fact that it is a brand new entity.

Board Member Thompson continued that having a duty station is a necessary piece of information for hiring purposes. He is comfortable with having the headquarters in Sacramento and then maybe expanding to southern CA. He also asked about the salary and whether there was a limit.

Ms. Garcia stated that CalHR must approve the salary and based on comparable positions, the salary range will be in the \$11,000 - \$14,000 per month range.

Board Member Le also thought headquarters would be in Sacramento; however, he would not mind taking a different approach. Sacramento makes sense, but so does the Bay Area.

Board Member de la Torre stated that the private market can afford to pay their staff much more than CPPA can; therefore, the board should look at a market where its ability to pay staff provides them a good standard of living.

Chairperson Urban believes the board has an opportunity to make the agency work for Californians from all communities. She has trouble seeing a successful executive director if they don't have the ability to be in Sacramento on a regular basis. Working with the AG's office, legislature, and BCSHA will be very important. That expectation should be made clear in the hiring documents. She asked the board how they would like to move forward. List Sacramento provisionally? Not list a location but make it clear that a lot of time would be spent in Sacramento?

Board Member Thompson indicated he prefers to list Sacramento provisionally, subject to change.

Board Member Le [nods head in agreement].

Board Member Sierra states that there does seem to be consensus that Sacramento is a good place for the headquarters, so that should be made clear to candidates that wish to apply.

Chairperson Urban asked Ms. Garcia if the board can list Sacramento provisionally with the expectation that much of the work will be done there as well.

Ms. Garcia – “absolutely.”

Board Member Sierra asked if multiple locations can be listed using language like “may also consider...”

Ms. Garcia stated that yes, multiple locations can be listed.

Chairperson Urban asked the board if they are ready to move forward on the location issue, as discussed?

[Nods of approval from all board members]

No Public Comments.

**Agenda Item 11 Notice to the Attorney General to Assume Rulemaking Authority**

Chairperson Urban described the background on the agenda item and requirements. She read directly from the statute. To begin the 6-month clock that will allow for the board to begin rulemaking, notice must be provided to the Attorney General.

Board Member Thompson stated six months is December 14 and asked if the board cannot submit the notice package to the Office of Administrative Law (“OAL”) until then?

Mr. Laird responded that while the board cannot formally promulgate and adopt and submit for final approval with OAL, the rulemaking process can be initiated beforehand.

Board Member Thompson asked if there is a downside to issuing the notice right now?

Mr. Laird does not believe there are downsides and he recommended proceeding with the notice now.

Board Member de la Torre asked if the AG’s office has done any preliminary work on rulemaking. She also has concerns about issuing this notice because the board and agency are not really ready to begin rulemaking without even hiring an executive director yet.

Mr. Laird stated that the AG’s office has not done anything to his knowledge. Additionally, readiness for rulemaking is a hard balance to make.



Board Member de la Torre stated it is unclear whether the board will be vested with rulemaking authority on July 1 without notice. She supports any process that helps to expedite the rulemaking process.

Chairperson Urban stated that she did not want to speak for the AG's office, but she did have a conversation with the original team and they have an expectation that the board will provide the notice.

She does not know if they would be willing to initiate the rulemaking process on the board's behalf, but the board can certainly follow up with them.

Board Member Sierra stated that by next meeting, the board should have a sense of how much help they can get with staffing and until then, they do not really know.

Chairperson Urban asked if there is anything that can be triggered on July 1 of this year if the board decides to hold off on providing the notice.

Mr. Laird responded that he is not aware of anything that would be triggered by a lack of notice.

Chairperson Urban provided a review of the notice requirements and proposed not to take an action on this item and to take it up again at the next meeting.

Public Comments.

Shoeb Mohammed, Policy Advocate with the CA Chamber of Commerce. He congratulated all of the board members on their appointment and looks forward to helping in their efforts.

**Agenda Item 14      Future Meeting Schedule**

Chairperson Urban proposed to meet in monthly intervals due to the large amount of work to get done.

Board Member Thompson agrees.

Board Member Le agrees.

Board Member Sierra agrees.

Board Member de la Torre agrees.

No Public Comments.

**Agenda Item 12      Public Comments Not on the Agenda**

Chairperson Urban provided information that no action can be taken on any topic identified, but it would be considered for the agenda at a future meeting.

No Public Comment.

**Agenda Item 13      Future Agenda Items**

Chairperson Urban listed the following items she has recorded:

- Hiring and interviews.
- Report from subcommittees.

- Information presentation on California Consumer Privacy Act of 2018 and the California Privacy Rights Act of 2020.

Board Member de la Torre identified the following:

- What forums or international conferences have been proposed and have been invited to and should board members attend or not. There is a conference in October that she has been invited to.
- Whether it makes sense for CA to apply for adequacy with the European Union regime under GDPR.

Chairperson Urban added:

- Revisit the delegation of authority.

Board Member Le identified the following:

- Location of the Agency and cost estimates for different locations.
- Strategic planning to help provide vision to the new executive director.

Board Member Thompson identified the following:

- Report on temporary staff availability from AG or other agencies and how the AG originally staffed this function.

Board Member Thompson asked if closed session meetings can be scheduled in-between regular meetings just for hiring purposes.

Mr. Laird responded that is possible, but the 10-day notice requirement and all of Bagley-Keene will still apply.

Board Member Thompson indicated that he would like to utilize the intermediary meetings in closed session to make the hiring process go as fast as possible.

No Public Comments.

### **Agenda Item 15      Adjournment**

Chairperson Urban thanked all the staff, Mr. Laird, Ms. Garcia, and Mr. Joseph-Pinero, and everyone else that assisted in putting the meeting together. She also thanked the board for their attention and dedication. Lastly, she thanked the public and asked for a **motion to adjourn**.

Board Member Le moved.

Board Member Thompson seconded.

Roll Call Vote Taken. **Motion approved 5-0.**

Meeting Adjourned at 4:48 P.M.

