

MINUTES OF OLCC ADVISORY COMMITTEE MEETING

Hours of Sale Petition OAR 845 006-0425

Friday, January 30, 2009 at 9:00 AM in Room 103A,
Commission Offices, Portland

Present: Walt Froman (Port of Portland); Candace Vincent (Made in Oregon); Michael DeKalb (Laurelwood Public House & Brewery); Stephanie Jewell (Stephanie Inc.); Linda Ignowski, Dan Croy, Laura Paul, Jennifer Huntsman (OLCC Staff).

Invited but not Present: Officer Sara Clark , Officer Nola Hoepfner (Portland Police Bureau); Juan Molina (MADD); Pamela Erickson (Public Action Management); Judy Cushing, Pete Schulberg (Oregon Partnership); Jeff Ruscoe (Mental Health & Addictions Services); Gretchen McKenzie (ODOT); Stephanie Soares-Pump (Governor's Council on Alcohol & Drug Abuse Programs); Theresa Marchetti (Office of Neighborhood Involvement); Adrienne Simmons (United Airlines); Brian McMenemy (McMenamins); Bill Perry (ORA); Judy Craine (Holman Bar & Grill); Hobie Pearson (Elk Rock Bar & Grill/Action Server Education); Shawn Miller (NW Grocers Association); Brian Flemming (Albertsons); Chris Girard (Plaid Pantries/ONSA); Erica Hagedorn (7-11/A-B).

The meeting began at approximately 9:05 a.m. in Room 103A of the OLCC's Milwaukie office. Jennifer Huntsman, OLCC Rules Coordinator, moderated the discussion and opened the meeting with a review of the process, history of how this rulemaking came about and introductions of those in attendance and their interest in this rule. Ms. Huntsman reminded everyone of the purpose of this meeting.

Ms. Huntsman explained that the Legislature has said (through Oregon's Administrative Procedures Act) that it wants agencies to involve interested parties in policy development. Rulemaking is one way agencies develop policies and Advisory Committees are a good way to hear from people or groups likely to have an interest in a particular issue - or who are likely to be impacted by a policy or change an agency is considering. She explained that Advisory Committees are just that: advisory. The purpose of an Advisory Committee is to give everyone a chance to express their thoughts on issues. The Commissioners are not bound by what we discuss or decide in these meetings. They are the policy-makers, and will make the final decision on whether to adopt the proposed amendments. Under Oregon's Public Meeting Law, this meeting is open to the public. We will take and retain

minutes of the meeting. The discussion today will be informal; the minutes will reflect the main points that are made. We do not identify who said what, except for Ms. Huntsman. Everyone on the mailing list for this rule will be sent a copy of the minutes; attendees were reminded to record their name and email address on the sign-in sheet.

Ms. Huntsman noted that members of this advisory committee would discuss the possible amendment of OAR 845-006-0425 Hours of Sale. This rule sets the hours during which licensees of the Commission may sell, dispense, serve, allow consumption of, or allow removal of alcohol. The Commission accepted a petition from the Food & Beverage Concessionaires at the Portland International Airport (PDX) requesting amendment of this rule to add language which would allow both On-Premises and Off-Premises sales licensees located at PDX to sell and serve alcohol between the hours of 5:00 a.m. and 2:30 a.m. This would be an additional two hours in the morning outside of the currently allowed hours of 7:00 a.m. to 2:30 a.m.

Ms. Huntsman explained that we would be discussing the rule language in detail and that this discussion and suggestions will be used in the permanent rulemaking process.

There will be a formal rulemaking hearing on this matter on Friday, April 24, 2009 at 10:00 am in Room 103A. Ms. Huntsman advised that she will repeat that information at the end of the meeting, but asked everyone to please note the dates on their agendas for the hearing and public comment period. Staff plans to have this back to the Commissioners for the June 2009 meeting for final action to adopt any amendments to the rule

Ms. Huntsman asked members to introduce themselves before proceeding to discuss the proposed amendments.

Discussion began with a brief summary by the petitioners of why the change in hours of sale at the Portland International Airport (PDX) has been requested. They shared that PDX is known for its “sense of place” and featuring local Oregon products; Oregon wines and craft beers make up a big part of this. PDX is what’s known as an “origination and destination” airport. 65% of passengers are leisure travelers (many on altered time clocks) and many would like to return home with a remembrance or gift of Oregon wine or craft beer, or have an alcoholic beverage prior to departure. The biggest peak of passengers flying is from 6-7 a.m., and because of the TSA requirements instituted post 9-11 most passengers arrive 2 hours prior to their flight. The goal of the petitioners is threefold: 1) to satisfy passenger requests; 2) to increase PDX revenue; and 3) to support Oregon products and our state economy.

One advisory committee member did not see the proposed change as being competition for their business, as their business, like many others, is not open at 5:00 a.m. However, much of the discussion centered on the future possibility and problem with other licensees wanting to tag on as a “me too” for earlier hours of sale. While the PDX concept makes sense and sounded fine to the group, some members were concerned that if an exception is opened up for PDX, then what other exceptions may then be requested? What about shift workers, hotels near PDX, and other airports in the state? At least as far as other airports, the group did not see this becoming an issue as no other Oregon airport does anywhere near the flight volume that PDX does, nor has the accompanying need for concessions. For example the Medford airport has only one liquor licensee and they do not open until 11:00 a.m.

One member asked why PDX was asking for a different start time than other states, such as Washington and California who start at 6:00 a.m.? The petitioners responded it is because that is when PDX is the busiest. Because PDX is a smaller airport than Seattle, San Francisco or L.A., many passengers are there early for connecting flights that begin a long day of flying. Many are also there early for international flights. 21% of passengers are in the boarding process by the 7 a.m. hour. The PDX security checkpoints open at 4:30 a.m. and quite a few of the concessions with liquor licenses open at 4:30, 5:00, or 6:00 a.m.

The main concern expressed at the advisory committee meeting was with on-premises consumption rather than packaged sales. It was discussed that PDX is a special environment in that people will not be driving, but rather are getting on an airplane. It was pointed out that families of passengers would also have access to alcohol, and although “meeters and greeters” are rare in those early morning hours, all agreed that the areas pre-security are open to the public.

One member suggested allowing on-premises consumption before 7:00 a.m. only in the post-security areas, however PDX does not want to put their pre-security concessionaires at any further disadvantage since this has already been an issue since the post 9-11 security measures were put in place.

Another member suggested requiring people to have a boarding pass in order to be served alcohol prior to 7:00 a.m., as this represents 99.9% of the people who are at PDX at that time of the day. The group believed this idea had merit. It was further discussed that the public is not wanting to buy packaged alcohol at the airport and that passengers by-in-large are going to do so post-security because of the checkpoint prohibitions on liquids. So, for ease of implementation, all agreed that a boarding pass should be required for all alcohol sales before 7:00 a.m. in the pre-security areas.

The idea of shifting the hours of sale at PDX (5:00 a.m.-12:30 a.m.) rather than adding to them (5:00 a.m. – 2:30 a.m.) was also discussed. The concepts of equity in number of hours across the state and also heading off possible “me too-ers” were discussed. Some members felt that both mill town taverns and hotels at the airport, as well as the vast majority of liquor licensees in the state, would not want to obtain earlier sales in exchange for the loss of sales between 12:30 and 2:30 a.m.

The petitioners felt that while early morning hours would meet their current needs more than keeping the latest hours, they would prefer keeping the late hours as well. While currently there are no concessionaires with liquor licenses that stay open past 11:00 p.m., they would like to preserve business operation flexibility for the future as well as having greater capacity to meet the needs of customers who may be stuck at the airport due to unexpected flight delays.

Some members were also concerned that if the hours of sale were shifted earlier at PDX then that could open the door for other licensees to request having their hours of sale shifted later, which was definitely seen as a public safety concern. It was also pointed out that additional hours of sale would be different at the airport than for other licensees since their patrons are coming and going and not hanging out as they would be elsewhere. At other licensed premises you’d be looking at the potential for people to drink more at one sitting, but not so for airline passengers.

The advisory committee members were in consensus that shifting the hours of sale would not be necessary if the proposal were to include the boarding pass requirement. Members felt that this would effectively deal with the “me too” situations, thus addressing any future public safety concerns statewide as well as at PDX. With the boarding pass requirement the PDX situation would truly be a very unique and narrow exception since we would be talking about airport passengers only, not the public, and not people who drink alcohol and then drive their cars.

Fiscal Impact Statement

Ms. Huntsman led the committee through a discussion of the Fiscal Impact Statement and the need to quantify (if possible) fiscal impacts this rulemaking will have in general, as well as any adverse impact on small businesses. During the discussion on the Fiscal Impact Statement, the following points were made:

The only potential fiscal impacts that members could see would all be positive. They could see no loss of revenue for anyone.

PDX concessionaires estimate that 2 hours of additional morning sales would generate approximately \$500,000 in additional annual sales. Just the 2 Laurelwood

Brewery locations alone are estimated to generate \$50,000 in additional annual sales. The Port of Portland uses this revenue to offset airport costs, thus helping to keep airline and passenger costs down.

As a result of increased sales, both the Oregon winery and craft beer industries would benefit. In turn, the Oregon economy would benefit.

All the licensed businesses affected, both the PDX concessionaires and the local wineries and breweries, are small businesses. In fact, many of the concessionaires are part of the Disadvantaged Business Enterprise (DBE) program at the airport. Only positive fiscal impact is anticipated for small business.

Ms. Huntsman stated that a new draft of the proposed rule amendment will go out with the Advisory Committee minutes within the next couple of weeks. This will be the version of the proposed rule amendments that folks will be asked to comment on at the hearing and in this next written comment period.

Ms. Huntsman reminded members of the rest of the process: the rulemaking hearing is currently scheduled for Friday, April 24, 2009 at 10:00 am in Room 103A. Written comment would then be received into the rulemaking record until 5:00 pm on Friday, May 8, 2009. The tentative plan is to present a report to the Commissioners at their June 2009 meeting for possible final action on this matter.

Ms. Huntsman closed the meeting by thanking members for their attendance and participation. The meeting ended at 10:00 am.