

# MINUTES OF OLCC ADVISORY COMMITTEE MEETING

## OAD 845 Division 005 Special Events Package

Tuesday, September 15, 2009 at 10:00 AM in Room 103A,  
Commission Offices, Portland

Present: Lynn Bauer (Clear Creek Distillery); Jeramie Mykisen (McMenamins); Brian McMenamin (McMenamins); Jennifer Bragar (Clear Creek Distillery); Brian Butenschoen (Oregon Brewers Guild); Kara Thallon (Oregon Restaurant Association); Dan Croy, Christie Scott, Laura Paul, Jennifer Huntsman (OLCC Staff).

Invited but not Present: Rob Van Volkinburg (Hood River Distillers); David/Georgia Nowlin (Brandy Peak Distillery); Jim Bendis (Bendistillery); Steve McCarthy/Charlie Williamson (Clear Creek Distillery); Lee Medoff (House Spirits Distillery); Erik Martin (Oregon Distillers Guild); Jack Joyce (Rogue Ales & Spirits); Gary Geist (Lucky Labrador Brew Pub); Art Larrance (Raccoon Lodge & Brewpub/Cascade Brewing Co); Bill Perry (Oregon Restaurant Association); Juan Molina (MADD); Judy Cushing/Pete Schulberg (Oregon Partnership); Pamela Erickson (Public Action Management); Stephanie Soares Pump (Governor's Council on Alcohol & Drug Abuse Programs); Officer Jacob Clark (Portland Police Bureau); Jeff Ruscoe (Mental Health & Addictions Services); Gretchen McKenzie (ODOT); Theresa Marchetti (Office of Neighborhood Involvement)

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The meeting began at approximately 10:05 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 adoption of OAR 845-005-0413 Special Events Distillery License & OAR 845-005-0414 Special Events Brewery-Public House License. These two rules would describe the Special Events licenses that will soon be available to current Oregon Distillery licensees and Brewery-Public House licensees. The 2009 legislature has passed Senate Bill (SB) 802 and House Bill (HB) 2528, effective January 1, 2010.

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 Tuesday, December 8, 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 February 2010 meeting for final action to adopt the rules.

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

Because the two new rules proposed are very similar in structure, having for the most part the same basic sections and rule language, the proposed rule sections in OAR 845-005-0413 (Special Events Distillery) & OAR 845-005-0414 (Special Events Brew-Pub) were discussed jointly. The additional sections regarding tastings for the distillery special events were then also covered.

These two new rules are modeled after existing Commission rules for other types of special events licenses (i.e. TSL, Special Event Winery) and all committee participants were supportive of most of the rule language proposed. In fact, there were no suggested revisions for OAR 845-005-0414 (Special Events Brewery-Public House License). Brewery-public house licensees are already familiar with obtaining special events licenses, until now under a TSL (Temporary Sales License).

There were a few comments/suggestions made regarding OAR 845-005-0413 (Special Events Distillery License). While the proposed concepts are not new as far as how the Commission treats other types of special event licenses, the concepts are

new for distillery licensees in that they have not had the statutory authority to hold special events until now.

One concern expressed regarding OAR 845-005-0413 was in regards to section (5)(f) which requires the applicant to obtain the recommendation in writing of the local governing body where the licensed premises will be located. It was questioned whether this language was necessary and if so if the process could be streamlined. Staff explained that it is a requirement that all liquor license applications (both annual and temporary licenses) must include input from the local governing body, and that local jurisdictions are used to handling many license applications, including those for special events.

Another concern expressed regarding staff resources at distilleries was the requirement in section (6) to provide a plan for managing patronage by minors, even when the event will be held on a premises that already has an annual license and minor postings. Some committee members felt that this requirement was duplicative and would like that requirement removed. Staff explained that section (6) is there so that just in case a special event is to take place on any part of an annually licensed premises, the special event applicant knows that their minor control plan for the event must be in sync with any pre-existing minor postings or control plans for the premises. This requirement also assists both Commission staff and licensees by providing additional clarity around who is responsible if any liquor law violations occur at an event; for example a distillery licensee could provide tastings at an event at the Oregon Convention Center (which holds a Full On-Premises Public Location license) but the special event distillery licensee (under their Special Events Distillery License), not the Convention Center licensee, would be responsible.

And finally, the disparity between the tastings parameters for these special events (greater flexibility allowed) versus other tastings already allowed by rule such as those sponsored by Full On-Premises Sales licensees (OAR 845-005-0428) was brought up. It was suggested that perhaps additional rule language could be added to section (6) so as to allow the larger tastings amounts at Full On-Premises locations without the distillery licensee having to obtain a Special Events license. Staff acknowledged that several other tastings rules, including OAR 845-005-0428, should be reviewed in light of the tastings parameters in the recently adopted distillery tastings rules (OAR 845-005-0431 & OAR 845-006-0452) and now in this proposed special event rule. However, staff also shared that the limits on both size and number of tastings conducted in OAR 845-005-0428 were also meant to address financial assistance concerns since rules such as this one govern tastings at a licensed premises where the annual licensee is sponsoring the tastings “event” and the manufacturer is assisting them.

## 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:

Overall, both new special events licenses that will be allowed as of January 1, 2010 are a positive for the distillery and brew-pub industry, in that they support them getting their products exposed to more consumers. While the proposed rules will implement these new licenses, it is really the statutory changes implemented by the 2009 legislature that are providing the positive fiscal impact, not the rules per say.

For Brewery-Public House licensees (who are small businesses) the application process and requirements for special events would remain the same with the new rule, but there would be a positive fiscal impact in that the new special event license is \$10 per day where as the TSL (Temporary Sales License) that they have been obtaining for special events is \$50 per day.

For Distillery licensees (who are also small businesses) there is an overall concern that there could be a negative impact with regards to the time and resources required to complete this new application process, specifically the requirements related to local government endorsements and minor control plans. They are seeking flexibility in these requirements wherever possible.

Ms. Huntsman stated that a new draft of the proposed rule adoptions will go out with the Advisory Committee minutes within the next few weeks. This will be the version of the proposed rules 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 Tuesday, December 8, 2009 at 10:00 am in Room 103A. Written comment would then be received into the rulemaking record until 5:00 pm on Tuesday, December 22, 2009. The tentative plan is to present a report to the Commissioners at their February 2010 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 10:55 am.