

# OREGON LIQUOR CONTROL COMMISSION MINUTES

February 18, 2010

Thursday, February 18, 2010

9:30 A.M. The Commissioners present were Alex Duarte, Bob Rice, Ron Roome, Cassandra SkinnerLopata and Chairman Phil Lang. Others present were Executive Director Steve Pharo, Deputy Director Rudy Williams, and members of staff.

**Minutes** – Commissioner Rice moved to approve the minutes of the January meeting. Passed 5 /0.

## **PUBLIC FORUM**

Ron Pinhcot Sandy Cove Foods/ Dukes Landing. Questions about his pending application with Trey McNulty, who also appeared.

Mike D- comments about commission meeting operation and comments about underage drinking and alcohol.

Todd Morris- Proposed Plaid Pantry store at NE 33<sup>rd</sup> and Sandy. Concerns about treatment program, Teen Challenge, across the street from this proposed application.

Bill Dodson- Would like to have liquor store in Rufus in his Sporting Goods Store called Braggables. He shared letters he has written in the past about opening a store and some photos of his business. Chairman Lang mentioned that he has appointed a task force to address the retail enterprise system and one of their tasks they are reviewing is adding more non exclusive stores. He brought a City Councilman from Rufus, Mr. Briggy who confirmed that the matter was brought to them a couple of years ago and they were all in support. He expressed concerns about the distance to the nearest liquor store and the condition of the road to get to that store which is very dangerous at night.

## **COMPLIANCE**

Becky Voelkel, Administrative Process Program presented.

There were 11 settlement agreements before the commissioners for ratification; Hot Seat Sport Bar; Terrebonne Depot; Holland's Bar & Grill; Chuby's; Govy General; D & J Shell; Dos Rocas Mexican Restaurant & Rockaway Tavern; Outfitters Bar & Grill; Everybody's Market; Five Star Chevron; Hickory Pit Barbecue.

Commissioner Roome moved to ratify the 11 settlement agreements. Passed 5/0.

## **LICENSE MATTERS**

Dan Croy, License Services Division presented.

**Fat Jack's Saloon/Mynt Gentlemen's Club** NE Sandy Blvd., Portland. Full-On Premises, New Outlet. This application is before the Commissioners based on an unfavorable recommendation from the City of Portland and the Laurelhurst Neighborhood Association. This matter was deferred from consideration at the December meeting for further review of information which was revealed about the applicants past.

A detailed transcript follows the minutes as an attachment.

Jim Atwood, the landlord of the applicant's business, testified in support the application.

Appearing in opposition were:

Jim Francesconi; Eric Fruits; Gary Naylor; Adrien Levoie; Christine Knab; Robert Cinnamon; George Matthews; Brian Gaines; Gabriel Stanbery; Scott Stocker; Don Gardner; Zach Kenney; Susan Marshall; Alan DeWitt; and MaryAnn Schwab.

Applicant's attorney Duke Tufty came forward on behalf of the applicants.

Chairman Lang moved deny the application. Motion failed 2/3 Duarte, Rice and Roome, no.

Commissioner Roome moved to grant the license with the 9 restrictions:

1. Licensee shall limit each patron to possessing no more than two containers of alcohol at a time and shall limit the amount of alcohol in a container to no more than 16 ounces of malt beverage, 6 ounces of wine, or 2 ounces of distilled spirits.
  2. Licensee shall stop the sale and service of alcohol at 1:30 am daily.
  3. Licensee shall prohibit patrons from possessing or consuming alcohol from 2:00 am to 2:15 am daily.
  4. The premises will be closed to the public between the hours of 2:15 am and 3:00 pm daily.
  5. Licensee shall have at least four DPSST certified security people on the premises and on-duty Thursday through Saturday from 9:00 pm to the close of business.
  6. Licensee will ensure that the parking areas under the licensee's control and the outside areas adjacent to the premises are patrolled at least every 30 minutes starting at 9:00 pm until the close of business to discourage loitering and illegal activity.
  7. Licensee will ensure that the noise level from inside the premises does not violate the City of Portland's noise ordinance.
  8. Licensee will have Age Verification Equipment, as defined in OAR 845-009-0140(1)(b), at every point of entry to the premises and will utilize the equipment to verify the age of every patron or potential patron who reasonably appears to be under 26 years of age.
  9. Licensee is prohibited from employing, using, or allowing entertainers under the age of 21. .
- Passed 4/1, Commissioner SkinnerLopata, no.

Chairman Lang encouraged regulatory staff to keep their eye on this operation.

**Service Permit Refusals-** There were 8 service permit refusals before the Commissioners for ratification.

**Service Permit Settlement Agreement-** There was one service permit settlement agreement for Michelle L Lipinski before the Commissioners for ratification.

Commissioner Rice moved to ratify the refusals and settlement agreement under Tab 2A & B.  
Passed 5/0.

## **RULES**

Judith Bracanovich, Administrative Policy and Process Director, presented.

## **INITIAL ACTION**

### **OAR 845-006-0380 Certificate of Approval for Distilled Spirits**

This new rule will implement the new certificate of approval for importing distilled spirits into Oregon which was created by the 2009 legislature (SB 135), effective January 1, 2010.

Commissioner Duarte moved to initiate rulemaking to adopt OAR 845-006-0380 and to hold a rulemaking hearing at staff's discretion. Passed 5/0.

### **OAR 845 Division 7 -Coupons Package**

This rule regulates the sorts of advertising and coupons which are allowed for the sale of beer, wine and cider in Oregon. The proposed rule amendments would clarify the definition of a coupon, allow retailer sponsored coupons, and implement the Business Partners recommendation to allow generic cross-promotional coupons as long as they are mail-in only.

Commissioner SkinnerLopata moved to initiate rulemaking to amend OAR 845-007-0010 and 845-007-0015 and to hold a rulemaking hearing at staff's discretion. Passed 5/0.

### **FINAL ACTION**

#### **OAR 845 Division 5- Special Events Package**

This package contains two new rules describing the qualifications, application process, and requirements for two new Special Event licenses that are now available to current Brewery-Public House and Oregon Distillery licensees. These new Special Event licenses were created by the 2009 legislature (HB 2528 & SB 802), effective January 1, 2010.

Commissioner Roome moved to adopt OAR 845-005-0413 and 845-005-0414, effective March 1, 2010. Passed 5/0.

#### **OAR 845 Division 20- Redemption Center Package**

Due to the impending receipt of our first redemption center application, staff recommends the amendment of rules in Division 20 in order to clarify redemption center application requirements and approval criteria.

Commissioner Duarte moved to adopt OAR 845-020-0020, -0025, and -0030, effective March 1, 2010. Passed 5/0.

Chairman Lang reflected on his doubts about how effective the redemption centers will be in the future and curiosity about unredeemed deposits.

### **CONTESTED CASE HEARINGS**

Judith Bracanovich, Administrative Process Division Director, presented.

#### **Pamela Shaw, OLCC-09-V-086-**

A proposed order was issued on December 3, 2009. Ms Shaw appeared before commissioners to provide her exceptions to the proposed order. Staff had no comments.

#### **Deluxe Billiards, Baisch, Inc. Mark Baisch, Pres/Dir/Stkhldr,dba; OLCC-08-L-008-**

A proposed order was issued on September 17, 2009. Attorney Frank Stoller and licensee Mark Baisch appeared before the commissioners to provide their exceptions. Anna Davis provided response and staff comments.

The Commission meeting room was cleared as the argument may include discussion of confidential treatment records.

Commissioner Duarte asked Mr. Stoller if he thought the agency should address the issue of the agency 'having inappropriately delegated authority' in the area of determining the phrase 'to excess' by the legislature. Mr. Stoller said that he thought that was a court issue, but that as an attorney he felt that the issue must be addressed.

Commissioner Roome clarified Mr. Stoller's argument about recent drug use.

**Recessed for lunch - 12:35**

**Reconvened - 1:30**

**Stockman's #1, Inc., Weiming He, Pres/Director/Stkhldr, Shaomei "Suzie" He, Director/Stkhldr, dba Stockman's Bar; OLCC-09-V-034-** A proposed order was issued November 13, 2009. Staff filed exceptions which were presented by Becky Voelkel and licensee's attorney, Floyd "Charlie" Vaughan appeared by telephone.

**Lucky Jade Chinese Restaurant, Lucky Jade, Inc., Cecilia Qina Chan, President/Stockholder, Joyce Qiwen Chan, Director/Stockholder, dba; OLCC-09-V-055, -055A, -055B -** A proposed order was issued on December 11, 2009. Staff filed exceptions. The licensee did not appear and did not file any exceptions.

Commissioner Roome asked about faulting the corporation if there is a possibility of individual fault and requiring counsel for corporations and if that must be decided in this case. Ms. Davis responded that it was made abundantly clear to the principals that, as a corporation, they must be represented by counsel. Commissioner Roome said that the ALJ should be the gatekeeper of that issue, as opposed to a hard and fast rule.

**Shell Food Mart, Toor Corporation, Sukhijt Toor, Pres/Stockholder, Raj Kiran Toor, Stockholder, dba; OLCC-08-V-060, -060A, -060B-** A proposed order was issued on December 1, 2009. Mrs. Toor and attorney Mike Mills appeared before the Commissioners. Kelly Routt presented staff comments.

**El Flamingo, El Flamingo, Inc., Ramiro Rodriguez, Pres/Dir/Stkhldr, dba OLCC-08-V-116-** A proposed order was issued on December 16, 2009. Mr. Ramiro Rodriguez and Mike Mills appeared before the Commissioner. Kelly Routt presented staff comments. Commissioner Roome asked about the Blue Iguana case, which was submitted by Mr. Mills in a motion to combine for purposes of consideration determination and issuance of final order.

**Recessed to confer with counsel on contested case items- 2:30 pm**

**Reconvened 4:40**

### **DECISIONS ON CONTESED CASES**

**Pamela Shaw-**

Commissioner SkinnerLopata moved to adopt the proposed order as the final order. Passed 5/0.

**Deluxe Billiards-**

Commissioner Roome moved to continue deliberations until the April meeting. Passed 5/0.

**Stockman's Bar-**

Commissioner Duarte moved to amend the proposed order per the list that will accompany the minutes and adopt the amended order as the final order. Passed 5/0.

**Lucky Jade-**

Commissioner SkinnerLopata moved to continue deliberations until the April meeting. Passed 5/0.

**Shell Food Mart-**

Commissioner Rice moved to deny the motion to reopen the hearing in the matter of Shell Food Mart. Passed 5/0.

Commissioner Rice moved to amend the proposed order per the list that will accompany the minutes and adopt the amended order as the final order of the commission. Passed 5/0.

**El Flamingo-**

Commissioner SkinnerLopata moved to deny consolidation of El Flamingo and The Blue Iguana. Passed 5/0.

Commissioner SkinnerLopata moved to remand El Flamingo Inc. to the office of Administrative Hearings. Passed 5/0.

**Clackamas Grocery Outlet-**

Commissioner Duarte moved to continue deliberations to the April meeting. Passed 5/0.

Recessed: 4: 40 pm

**Friday, February 19, 2010**

9:30 a.m. The Commissioners present were Alex Duarte, Bob Rice, Ron Roome, Cassandra SkinnerLopata and Chairman Phil Lang. Others present were Executive Director Steve Pharo, Deputy Director Rudy Williams and members of staff.

**RETAIL SERVICES**

Brian Flemming, Retail Services Director, presented

**Agent Contract Renewals-**

Sixteen agents have retail sales agent contracts that are approaching the expiration date. Staff proposed renewing the contracts as follows, eleven for five years and five for ten years.

Proposed renewals for 5 years:

Agent	Agency#	Location	Contract Expiration
Judy Ewing	1234	Wamic	7/5/10
Anna Hyde	1183	Portland, Powell	7/10/10
Elizabeth Mollgaard	1017	Salem, South	9/5/10
Sidney Bauer	1237	Beaverton Allen Blvd	9/19/10
Craig Sherman	1164	Portland Downtown	9/19/10
Willard Sperry	1015	Nyssa	10/02/10
Melanie Stanley	1165	Blue River	11/1/10
Linda Quinn	1030	Klamath Falls East	11/2/10
Pauline Eells	1065	Glendale	11/2/10
Serena Ruth	1026	Eagle Point	11/15/10
Ann Murray	1001	Condon	11/17/10

Proposed renewal for 10 years:

Brad Ruddlesdin	1117	Molalla	7/28/10
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Ronald Gay	1038	Wallowa	11/01/10
Saleem Noorani	1143	Springfield Gateway	12/4/10
Maria Blankenship	1040	Umatilla	12/15/10
Michael Sigsby	1162	Newberg	12/16/10

Commissioner Rice moved to reappoint the 11 agents for 5 years and the five for ten years as noted. Passed 5/0.

**Relocation Lakeview 1058-**

Agent Marissa Reed is requesting site approval to relocate the Lakeview liquor store into a larger retail space. The location will move from 350 N F St to 305 N F St in Lakeview.

Commissioner Duarte moved to approve the relocation as proposed. Passed 5/0.

**Distillery Agent Appointment Stein Distillery**

Austin Stein of Stein Distillery is applying for a distillery retail sales agreement under ORS 471.230(2). They are currently distilling products at 604 N Main St., Joseph and would like to allow sales of their products at this location. The hours of operation will be Tuesday through Saturday from 2pm to 6pm.

This application was deferred from the January meeting for more information on the applicant's plans to live in the Portland Metro area and run a distillery in Joseph, which is a considerable distance away. The applicant provided a review of their day to day operations.

Commissioner Roome moved to approve the agreement for Austin Stein. Passed 5/0.

**Agent Appointment- Milwaukie, #1094**

This vacancy occurs as a result of the John Biber's appointment to the Bend store in December. The interview committee interviewed ten applicants. The five finalists; Brent Bolander, PattyJo Bumbarger, Greta Karimi, Debbie McDougall, and Robert Wallace presented their qualifications to the Commissioners.

Commissioner Duarte asked Ms. McDougall if she planned to give up the Sunnyside store or operate Milwaukie as a second store. Ms. McDougall responded that she hoped to operate both stores.

Commissioner Roome asked about the comment Mr. Wallace made about being limited in operations at the Bend store. Mr. Wallace clarified that he was referring to the limited support he had to operate the store as he was the manager and the agent was unwilling to invest in improvements in the store as he had hoped.

**Agent Appointment- Portland, Burlingame, #1112**

This vacancy occurs as a result of Bruce Gillilan's resignation. The interview committee interviewed nine applicants. The four finalists; Britt Bauer, Timothy Lohman, George Psihogios, and Trudi Seadorf appeared before commissioners to present their qualifications. Commissioner Duarte asked Ms. Seadorf how she balanced working for her own company and another. She said that the obligations were at off hours and she was able to balance both commitments.

**Agent Appointment- Salem, Battlecreek #1198**

This vacancy occurs as the result of establishing a new store. The interview committee interviewed six applicants. There were four finalists; Eric Stroup withdrew. The three remaining finalists; Steve Brown, Dean O'Donnell and Cynthia Powell presented their qualifications to the Commissioners.

**Recessed to executive session:** 11:00 a.m.

**Reconvened:** 11:52 a.m.

**Agent Appointment Milwaukie-**

Commissioner SkinnerLopata moved to appoint PattyJo Bumbarger as the agent of 1094, Milwaukie. Passed 5/0.

**Agent Appointment Portland, Burlingame-**

Commissioner Duarte moved to appoint Tim Lohman as agent of 1112, Portland, Burlingame. Passed 5/0.

**Agent Appointment Salem, Battlecreek-**

Commissioner Roome moved to appoint Steve Brown as agent of 1198, Salem, Battlecreek. Passed 5/0.

**Recessed** to move to another room for roundtable lunch discussion with commissioners and exec staff: 11:55 am

Reconvened 12:20

Executive Director Pharo began by discussing his goal for the roundtable discussion- he has asked the exec staff to share their ideas about possible policy option packages for next session and share their division plans for the next ten years. He asked each division director to review the background on their proposals and discuss what the proposals mean in terms of people and money. Staff present were: Farshad Allahdadi, License Services Director; Judith Bracanovich, Administrative Policy and Process Director; Tom Erwin, Communications and Government Affairs Director; Brian Flemming, Retail Services Director; Mark Hall, Information Technology Director; Linda Ignowski, Regulatory Services Director; Bruce Johnson, Support Services Director; Merle Lindsey, Deputy Director, Distilled Spirits Program; Michael O'Connor, Financial Services Director; Steve Pharo, Executive Director; and Rudy Williams, Deputy Director, Public Safety Services Program.

Adjourned 1:30pm

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Phil Lang, Chairman

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Alex Duarte, Commissioner

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Bob Rice, Commissioner

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Ron Roome, Commissioner

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Cassandra SkinnerLopata, Commissioner

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Stephen A. Pharo, Executive Director  
and Secretary to the Commissioners