

OREGON LIQUOR CONTROL COMMISSION

MINUTES

February 10, 2012

Friday, February 10, 2012

9:00 A.M. The Commissioners present were Alex Duarte, Michael Harper, Ron Roome, and Chair Cassandra SkinnerLopata. Executive Director Steve Pharo attended along with members of staff.

Minutes – Commissioner Roome moved to approve the minutes of the January 13, 2012 meeting. Passed 4/0.

PUBLIC FORUM

Portland City Commissioner Amanda Fritz appeared before Commissioners to share a resolution the city council made earlier in the week to ask the Commission to address their concerns regarding issuing liquor licenses to qualified food cart applicants.

Roger Goldingay, license applicant for Cartlandia, appeared before Commissioners to ask that the licensing process be allowed to continue as proposed.

Dr Carol Otis, license co applicant for Cartlandia, also asked Commissioners to move their application forward.

Jim Adams, co owner of GM Chef, a cart at Cartlandia, came forward to ask Commissioners to take action on the application.

Christopher Laprairie, Relish Gourmet Hot Dogs Food Cart, a cart at Cartlandia, asked Commissioners to review the application so other cart operators could have this option available

MaryAnn Schwab, a resident of Sunnyside neighborhood, came forward to address her concerns that the attorney general clearly define the difference between a brick and mortar establishment and a cart on wheels.

James Knight, owner of the Rock House Grill at Cartlandia. He asked that Commissioners let Cartlandia set the standard for this new idea.

ADMINISTRATION

Inspector Swearing In- Public Safety Program Director Rudy Williams presented a new inspector to the Commission- Molly Wainwright. Chair SkinnerLopata conducted their oath.

COMPLIANCE

Becky Voelkel, Administrative Process Division presented.

There were 5 settlement agreements before the commissioners for ratification; Amnesia Brewing; Cannon Beach Cookie Co; Toby's Sports Pub; Pizza Hut; and Alexander OTB.

Commissioner Roome asked about the final order by default for an agent as it is not something they have seen before. Ms. Voelkel noted that when an audit is found to be under 2% of

Commissioner Duarte moved to ratify the 5 agreements. Passed 4/0.

LICENSE MATTERS

Gwenn McNeal, License Services Division presented.

Service Permit Refusals-

There were seven service permit refusals before Commissioners for ratification.

Commissioner Harper moved to ratify the seven refusals. Passed 4/0.

Farshad Allahdadi, License Services Division Director, presented.

TNT Convenience Store, N Vancouver, Portland; Off premises sales

Applicant Haddas Andemariam Gebremichael appeared before the Commissioners. The City of Portland issued an unfavorable recommendation based on proximity to facilities.

The applicant has since entered into a Good Neighbor Agreement Commissioner Roome asked if this location was in the proposed Alcohol Impact Area. Mr Alladadi noted that this is not in the proposed area; this application is for a location in North Portland.

Commissioner Harper asked the applicant to comment on some of the city's requests of restrictions on the license. Mr Gebremichael said that they agreed to adhere to the city's requests within the Good Neighbor Agreement and see how it impacts the business and request that changes are made in the future if his business is negatively impacted by these conditions.

Commissioner Duarte moved to grant the license, passed 4/0. Chair SkinnerLopata commended the applicant on his work with the neighborhood association and the concerned facilities. She encouraged him to continue the good efforts.

Holgate Corner Mini Mart, SE Holgate St., Portland; Off Premises sales, New outlet.

Applicants Ying and Darren Chu appeared before the Commissioners. The city of Portland provided a negative recommendation on this application and there was additional opposition from a school and neighbors.

Commissioner Roome moved to grant the license. Passed 4/0.

King's Wild Bar & Grill, SE Powell Blvd. Portland; Limited On premises sales, additional privilege; Applicant Andy Maes appeared before commissioners. Commissioner Roome commented that he is not impressed that a single misdemeanor in 1995 weighs in at all, particularly when the neighborhood association and neighbors have not weighed in at all with any concerns on the application. He just does not feel persuaded by the evidence. Commissioner Duarte asked what the final resolution was on the charge in 1997. Mr Maes said that issue was dropped, there was no court case or probation. Chair SkinnerLopata commented on the unknown dispositions in his record and her concerns about those.

Commissioner Roome moved to grant the additional privilege. Commissioner Duarte echoed the Chair's concerns over the allegations in his record. Passed 4/0.

RETAIL SERVICES

Brian Flemming, Retail Services Director, presented.

Contract Renewals

Eleven agents have retail sales agent agreements that are approaching the expiration date. Five of the eleven have met the terms of the agreement at a satisfactory level which meets the criteria for a five year reappointment:

Agent	Agency	Location	Expiration Date
Harold Maag	1221	Portland, Lloyd Center	8/06/2012
Rhonda Leach	1137	Cottage Grove	8/22/2012
William Ruef	1104	Rockaway	8/30/2012
Robin Keever	1118	Oakridge	11/29/2012
Jaine Tipple	1077	Florence	12/29/2012

Six agents have met the terms of agreement at a higher level which meets the criteria for a ten year reappointment:

Agent	Agency	Location	Expiration Date
Jackie Ripley	1102	Tillamook	7/30/2012
Michael McCarley	1130	Myrtle Creek	8/10/2012
Kathryn Sutphin	1043	Myrtle Point	8/16/2012
John Murray	1002	Heppner	8/30/2012
Chris Kuppler	1192	Portland Beaumont	9/1/2012
Malik Pirani	1245	Portland Pearl District	11/29/2012

Commissioner Duarte moved to reappoint the 11 reappointments as indicated. Passed 4/0.

Retail Sales Agent Appointments under ORS 471.752 (2) and OAR 845-015-0125(2)

Three agents are up for appointment under the spouse/child agent appointment criteria. They have been temporary agents ranging from the last six or twelve months.

Sheri Daniels; King City 1189-

Ms Daniels has worked in the store with her father for approximately 20 years. Since her father Leon Stratton was disabled and unable to perform his duties as a liquor agent. She has been the temporary agent since August 10, 2011.

Frank Sandlin, Agness 1213-

Mr Sandlin has been the temporary agent at this store since March 8, 2011, shortly after the death of his mother Marion Moore, who was the previous agent. Mr Sandlin had worked in the store with his mother for the past 19 years.

Gayle Abernathy, Portland Barnes 1236-

Mrs Abernathy has been the temporary agent of the Barnes liquor store since September 16, 2010 after the death of her husband Lynn who was the agent. She has worked in the store since her husband was appointed agent in 2005.

Commissioner Harper moved to appoint Sheri Daniels, Gayle Abernathy, and Frank Sandlin as the permanent agents at stores 1189, 1236 and 1213 respectively, effective March 1, 2012. Passed 4/0.

Agent Appointment for 1097, North Bend.

This vacancy occurs as a result of Scott Wailing's resignation. The only qualified applicant was Robert Dickey. Robert Dickey appeared before commissioners to present his qualifications for operating the store. Mr Dickey had been working at the Bend, North store as a manager. Commissioner Duarte asked which store Mr Dickey had applied for in the past. It was Klamath Falls.

Commissioner Roome moved to appoint Robert Dickey as permanent agent at 1097 North Bend effective March, 2012. Passed 4/0.

Agent Appointment 1164, Portland Downtown.

This vacancy occurs as a result of Craig Sherman's retirement. Kimberly Saunders was the only qualified applicant. Kimberly Saunders appeared before Commissioners to present her qualifications for operating the store.

Commissioner Duarte asked a question about the maps provided by the applicant. She provided her research on locations to relocate in the store area.

Commissioner Roome commented on this locations current appearance and his hope that it will be spruced up by the new operator.

Commissioner Harper added that he was excited to have a good neighbor in the area.

Commissioner Duarte moved to appoint Kimberly Saunders effective March, 2012. Passed 4/0.

Pilot Satellite Store Proposal- Sunriver

A proposal is before the Commissioners to establish a non-exclusive satellite store in the Sunriver area at the North Store. John Audia, agent of the current Sunriver store also owns the North Store. The stores are three miles apart within Sunriver. This is a pilot store and it will be evaluated based on the economic viability for the liquor agent and the OLCC. If it is determined successful, staff would initiate the process to create a permanent non-exclusive satellite location in Sunriver. If it is not successful, the store would discontinue distilled spirit sales and remaining inventory would be transferred to the existing Sunriver store.

Commissioner Roome moved to approve a non-exclusive pilot satellite store in Sunriver. Passed 4/0.

ADMINISTRATION

Legislative Update-

Government Affairs and Communications Director Tom Erwin attended to give an update on legislation the agency is currently tracking.

SB 1501 (Central warehousing of wine) had a hearing on February 9. It is currently scheduled for a work session on February 14. We expect that there will be amendments made in the future. Discussed the legislative session's timeline for bills to leave the chamber of origin.

SB 1508 (Distributor Cooperative and reporting requirements) This bill has had a hearing and a work session is scheduled for next week.

SB 1524- This is a clarification of SB 878 from last session. An overlooked item in drafting did not achieve the original intent and this bill will correct that area. It has already passed the Senate and has been referred to the House Judiciary Committee for further hearings.

SB 1528 (Peace Office status for OLCC Inspectors) A public hearing and work session was held earlier in the week. The agency is sending a clarifying letter to the Senate Judiciary committee to address some questions which were raised during the hearing. Commissioner Harper asked if there was intent to have inspectors qualified to carry firearms through this legislation. Executive Director Pharo said there is not.

HB 4047 (Raffle of distilled spirits) This bill has already passed the House and has been referred to the Senate Business, Transportation and Economic Development Committee.

HB 4092 (Oregon Distiller's Guild) Staff worked with the Guild on crafting amendments. The amended bill passed out committee unanimously and is headed to the floor.

HB 4149 (Tobacco enforcement authority) A hearing was held last week. Committee was not convinced that OLCC should be the agency enforcing tobacco compliance. Currently there is no enforcement effort. Without this authority the agency cannot apply for federal funding to help in this area.

Commissioner Duarte asked for more information on the bills limiting rule-making authority of agencies. Rules Coordinator Jennifer Huntsman came forward and shared her tracking of these bills. She noted that there have been no hearings on this legislation.

Recessed 10:45 am to contested case deliberation on items which were continued from previous meetings.

Reconvened 11:54 am

CONTESTED CASE HEARINGS

Decisions on contested cases

US Market #145, LLC; Lal Sidhu, Managing Member; Satwinder Singh, Member; dba. OLCC 11-V-009, -009A, -009B Commissioner Roome moved to amend the proposed order per the list that will accompany the minutes and adopt the amended order as the final order. Passed 4/0.

Van's 76 & Food Mart- Request for Reconsideration

Commissioner Harper moved to deny reconsideration of the order denying relief from default issued on November 14, 2011 and the final order by default issued on November 28, 2011. Passed 4/0.

Recessed to lunch 11:55 am

Reconvened 1:08

Starla Rosenberg; OLCC-11-SPR-013

A proposed order was issued November 10, 2011. Ms Rosenberg filed exceptions. She appeared by telephone. Case presenter Gwenn McNeal provided staff comments.

Capitol Market; OLCC-11-V-030-R; Henry Fu, Jui-Chih Fu dba

A proposed order was issued on May 11, 2011. Licensees Mr & Mrs Fu filed exceptions and appeared to present those exceptions to Commissioners. Becky Voelkel presented staff comments.

Stone Cliff Inn, LLC; OLCC-11-V-041, -041A, -041B, -041C; Erik Maki, Managing Member, Michael Rosenbaum, Member, Tom Cook, Member; Stone Cliff Inn, dba

A proposed order was issued on December 21, 2011. Case presenter Kelly Routt presented staff comments. Michael Rosenbaum, attorney and member of LLC, represented licensee at hearing and appeared before Commissioners to respond to staff comments.

Recessed to deliberate contested cases: 2:02pm

Reconvened:2:55 pm

Decisions on Contested Cases

Starla Rosenberg; OLCC-11-SPR-013

Commissioner Roome moved to continue deliberations to the March meeting. Passed 3/1. Commissioner Harper no.

Capitol Market; OLCC-11-V-030-R; Henry Fu, Jui-Chih Fu dba

Commissioner Roome moved to amend the proposed order per the list that will accompany the minutes and adopt the amended order as the final order. Passed 4/0.

Stone Cliff Inn, LLC; OLCC-11-V-041, -041A, -041B, -041C;

Commissioner Duarte moved to continue deliberations until the April meeting. Passed 4/0.

Adjourned 2:57 pm.

_____/s/_____
Cassandra SkinnerLopata, Chair

_____/s/_____
Alex M. Duarte, Commissioner

_____/s/_____
Michael E Harper, Sr., Commissioner

_____/s/_____
Bob Rice, Commissioner

_____/s/_____
Ron Roome, Commissioner

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