

OREGON LIQUOR CONTROL COMMISSION
MINUTES
April 21-22, 2011

Thursday, April 21, 2011

10:03 A.M. The Commissioners present were Alex Duarte, Bob Rice, Ron Roome, Cass SkinnerLopata and Chairman Phil Lang. Others present were Executive Director Steve Pharo, Deputy Director Rudy Williams, Deputy Director Merle Lindsey and members of staff.

MINUTES

Commissioner Rice moved to approve the minutes of the March 16, 2011 commission meeting.

Passed 5/0

PUBLIC FORUM

No one present for Public Forum.

COMPLIANCE

Becky Voelkel, Administrative Policy and Process Division presented.

There were twelve stipulated settlement agreements before the commissioners for ratification; Towne Pump & Pantry, Minute Market # 6, Dakota Street Pizza Co., Round Table Pizza of Bend, Gino's Pizza Inn, Pop's Branding Iron Restaurant & Lounge, Darcelle XV, La Fogata Mexican Restaurant, Elizabeth Farfan Camargo, On the Roc's Sports Lounge, Marrakesh Moroccan Restaurant, and TNT Hollywood Tavern.

Commissioner Roome moved to ratify the twelve settlement agreements as presented under Compliance.

Passed 5/0

LICENSE MATTERS

Dan Croy, License Services Division presented.

Curly's Café – Applicant Darrell Luttrell appeared before the Commission.

Commissioner Roome moved to grant the license for Darrell Luttrell of Curly's Café in Glendale Oregon.

Passed 5/0

Faith Hope and Charity Vineyard – Applicants Roger Grossman and Cynthia Grossman appeared before the Commission.

Commissioner Roome asked the applicants the status of the land use hearing. Applicant responded that the hearing has already been held and the hearing officer, Karen Green, is reviewing the case.

Commissioner Duarte moved to approve the license for Faith Hope and Charity Vineyards in Terrebonne Oregon.

Passed 5/0

Picomart – Applicant Vasilios Flevaris appeared before the Commission.

Commissioner Rice asked the applicant if he is aware and understands the proposed restrictions that will be placed on the license if granted. Applicant responded that he is

aware of the restrictions and understands them. Commissioner Rice continued his questioning by asking the applicant if the outlined proposed restrictions were acceptable to him. Applicant responded yes.

Chairman Lang further explained if there is any violation of the proposed restrictions placed on the license, the license may be deemed for cancellation. Applicant responded stating his cooler will now be located behind the sales counter.

Commissioner Roome asked Dan Croy if this location is within the Alcohol Impact Area. Dan Croy confirmed applicant's address with Jennifer Huntsman and Jennifer responded that yes, this location is within the AIA.

Commissioner Duarte moved to approve the application for a license for Picomart with the three restrictions as listed.

Commissioner SkinnerLopata stated that she didn't feel that granting this license is in the public's interest and her vote was no.

Passed 4/1

Service Permit Refusals- There was one service permit refusals before the Commissioners for ratification. There is one licensing settlement agreement for West Linn Saloon.

Commissioner SkinnerLopata moved to ratify the service permit refusals for Thomas Vining, as presented under License Matters, under Tab 2A, and to ratify licensing settlement agreement for West Linn Saloon, as presented under License Matters, under Tab 2B.

Passed 5/0

RETAIL SERVICES

Brian Flemming, Retail Services Director, presented.

Retail Sales Agent Appointment – Agency 1103, Albany-East

Applicant Amie Johnson appeared before the Commission.

Commissioner Duarte asked Brian if the new applicant takes over the remaining time left on the current contract or if it is a new contract. Brian responded that if approved, the applicant will receive a new contract.

Commissioner Roome asked Brian if the Commission allows other applicants to apply for these types of vacancies. Brian responded stating for this particular location, the vacancy was not advertised for other applicants. Lynn Rosik stated that the statutory intent is that if the person is qualified, there is no requirement to open the vacancy. Chairman Lang mentioned that the agency precedent is that we don't advertise the vacancy when there is a qualified dependant applicant.

Commissioner SkinnerLopata moved to appoint Amie Johnson under ORS 471.752(2) as the permanent agent at 1103 Albany-East effective May 2011.

Passed 5/0

New Store Proposal – 1248 Running Y Ranch

Commissioner Duarte asked if Brian has had a chance to dialogue with Klamath Falls liquor agent Susan Noud. Brian responded that he has in fact has dialogued and discussed the issues the Klamath Falls agent has with this proposal.

Commissioner Duarte asked for clarification regarding the distance from the Running Y location to the newest liquor store. Brian responded that it is seven and a half miles to one of the Klamath Falls location and thirteen miles to the other Klamath Falls liquor store.

Commissioner Roome asked if the Running Y location will be frequented by tourism more than it would be for community members, that normally would frequent the Klamath Falls

liquor stores. Brian responded that it is variant as to if it will be permanent or part-time residents, tourists frequenting the Running Y Ranch location. Commissioner Rice moved to grant the establishment of a new retail agency located at Running Y Resort.

Passed 5/0

RULES - Staff recommendations and Commissioners discussion and decision on administrative rules.

(Jennifer Huntsman)

Action

INITIAL ACTION

OAR 845-009-0140 Age Verification Equipment

The proposed amendments would expand the requirements that age verification equipment (AVE) must fulfill in order to meet minimum operating standards, as well as remove the requirement that licensees purchase a piece of equipment for each point of sale.

Commissioner Roome moved to initiate rulemaking to amend OAR 845-009-0140 and to hold a rulemaking hearing at staff's discretion.

Passed 5/0

FINAL ACTION

OAR 845 – Division 13 – Financial Assistance Package (OBWDA Petition)

We received a petition from the Oregon Beer & Wine Distributors Association. In order to increase the value of display bins/racks and the size of exterior signs that can be given by suppliers, the petitioner requests to amend two Financial Assistance rules in Division 13. Commissioner Rice asked for clarification of trade name and brand name. Jennifer responded stating trade name allows only one for the trade name and brand name family allows multiple brands within the family.

Commissioner SkinnerLopata moved to amend OAR 845-013-0030 and OAR 845-013-0050 effective May 1, 2011.

Passed 5/0

OAR 845-006-0425 Hours of Sale (Redmond Airport Petition)

We received a petition from David Shurtleff (Coyote Ranch Pub) at the Redmond Municipal Airport (RDM). The proposed amendments would expand the authorized hours of sale to 5:00 a.m. – 2:30 a.m. for licensees located at not only RDM, but also all Oregon public use airports designated as a Category I – Commercial Service Airport by the Oregon Department of Aviation.

Commissioner Roome moved to amend OAR 845-006-0425, effective May 1, 2011.

Passed 5/0

ADMINISTRATION

Public Testimony on \$.50 surcharge on distilled spirits products – Steve Pharo

Steve Pharo presented.

The following appeared before the Commission, In Favor of the continuation of the \$.50 surcharge on distilled spirits products: Bill Minihan, ALSO President and Agent of Eugene Westside and Eugene Northeast, Tom Parker, Communication Director of Oregon Partnership.

Chairman Lang mentioned that he and Commissioner Rice both shared that at the initiation of this surcharge that they would be reluctant to continue this surcharge after the sunset, unless there was some discussion regarding the current beer tax. Chairman Lang

stated he has reviewed beer tax increases across other states, and where Oregon ranks amongst other state increases. Chairman Lang asked Tom Parker if Oregon Partnership would be in support of increase in beer tax as well. Tom responded that Oregon Partnership would definitely be in support of an increase to the beer tax.

The following appeared before the Commission, In Opposition of the continuation of the \$.50 surcharge on distilled spirits products: Adam Smith Vice President of the Western Region for DISCUS (Distilled Spirits Council of the United States) and Greg Sellers of Beam Global.

Commissioner Duarte asked if staff has done analysis to see what sales would have been had the surcharge not been implemented. Steve Pharo responded that due to complexities and variables, it would be hard to produce a fair analysis of what sales could have been without the surcharge. Steve added that in general, the higher end products currently appear to be increasing faster than value brands.

Wet-lab Video Presentation – Rudy Williams

It's Your Call Wet Lab Video presented.

Swearing in of Liquor Regulatory Specialist –

Chairman Lang and Regulatory Director Linda Ignowski announced the new hire of John Mereen. Chairman Lang swore in John Mereen as new inspector of the Enforcement Division.

Recessed for lunch: 11:34

Reconvened: 1:06

CONTESTED CASE HEARINGS – Consideration of Administrative Law Judges' recommendations on contested cases. Requests for reconsiderations of Commission decisions. Arguments may be presented by staff, licensees, or applicants taking exception to Hearings' recommendations.

(Case Presenters)

Yogee's

Kelly Routt presented. Licensee Toby Faas and Attorney Gregory Lusby both appeared before the Commission. The matter before the Commissioners for their considerations is it is proposed that the May 18, 2010, Amended Notice of Proposed License Suspension/Civil Penalty be dismissed.

Center Market # 18

Kelly Routt presented. Licensee Bahadur Singh and Attorney Michael Mills appeared before the Commission. The matter before the Commissioners for their considerations is it is proposed that the license application for Raman, Inc. dba Center Market #12, be granted.

Commissioner Roome asked attorney Michael Mills if his client, Bahadur Singh, is accepting of the proposed restrictions that could be placed on the license. Mr. Mills responded that his client is planning on implementing Age Verification Equipment and training his employees to use the equipment at this location.

Full Moon Bar & Grill

Jesse Sweet presented. The matter before the Commissioners for their considerations is it is proposed that the Full On-Premises sales license held by Full Moon Bar & Grill, LLC, dba Full Moon Bar & Grill, be suspended for 30 days.

Britta Bloomquist (SPR)

Becky Voelkel presented. Service Permit applicant, Britta Bloomquist appeared before the Commission via conference call. It is proposed that the service permit application be denied as the applicant has had two DUII diversions or convictions within three years, one of which was in the last twelve months.

Teresa Jacobson (SPR)

Becky Voelkel presented. Service Permit applicant, Teresa Jacobson appeared before the Commission. It is proposed that the service permit application be denied as the applicant has had two DUII diversions or convictions within three years, one of which was in the last twelve months.

Justin Williams (SPR)

Becky Voelkel presented. It is proposed that service permit No. 356058, issued to Justin W. Williams on May 11, 2010 be revoked as the applicant has had two DUII diversions or convictions within three years, one of which was in the last twelve months.

El Paisano Superstore

Kelly Routt presented. The matter before the Commissioners for their considerations is, it is proposed that the application for an Off-Premise Sales license filed by Applicants Silvia Tamayo and Baudelio Perez, dba El Paisano Superstore, be denied.

Recessed: 1:32 PM

Reconvened: 3:00 PM

DECISIONS ON CONTESED CASES

Yogee's

Commissioner SkinnerLopata moved in the matter of Yogee's, LLC to amend the proposed the order pursuant to the list which will accompany the minutes and to adopt the amended order as the final order of the Commission.

Passed 5/0

Center Market # 18

Commissioner Roome moved in the mater of the application for an off-premises sales license by Raman Inc., Bahadur Singh, PresidentCenter Market #18 to amend the proposed order of the ALJ and adopt the amended order as the final order of the Commission.

Passed 4/1

Full Moon Bar & Grill

Commissioner Duarte moved in the matter of the full on premises sales license held by Full Moon Bar and Grill, LLC, Jeff Veenker, Managing member in Boring Oregon, to amend the proposed order of the ALJ per the list which will accompany the minutes and to adopt the amended order as the final order of the Commission.

Passed 5/0

Britta Bloomquist (SPR)

Commissioner Rice moved, in the matter of the application for a service permit filed by Britta Bloomquist, to continue deliberations until the June Commission meeting.

Passed

Teresa Jacobson (SPR)

Commissioner Rice moved, in the matter of the application for a service permit filed by Teresa Jacobson, to continue deliberations until the May Commission meeting.

Passed 5/0

Justin Williams (SPR)

Commissioner Rice moved in the matter of the proposed revocation of the service permit held by Justin Williams, to continue deliberations until the June Commission meeting.

Passed 5/0

El Paisano Superstore

Commissioner SkinnerLopata moved in the matter of off-premises liquor license application filed by Sivilia Tamayo and Baudelio Perex dba El Paisano Superstore, to amend the proposed order of the ALJ per the list which will accompany the minutes and to adopt the amended order as the final order of the Commission.

Passed 5/0

River Bend Reconsideration

Commissioner SkinnerLopata moved in the matter of the full on premises sales license held by River Bend Bar & Grillm LLC, Barbara Richmond-Harris, Managing member, to deny reconsideration of the settlement agreement.

Passed 5/0

Adjourned: 3:06 PM

Friday, April 22, 2011

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

Agent's Compensation Formula Presentation – Michael O'Connor

Financial Services Director, Michael O'Connor provided a power point presentation focusing on the formula used to calculate agents compensation. Handout of power point provided and accompany these minutes.

OLCC Rules Process Presentation – Jennifer Huntsman

Rules Coordinator, Jennifer Huntsman, provided an overview of the OLCC rules process. Handout of current rulemaking schedule provided and accompany these minutes.

**NOTE: The next Commission Meeting is a phone meeting on
May 20, 2011 in Portland.**

For more information, please telephone Toll Free 1-800-452-6522 or Portland 503-872-5006

Phil Lang, Chairman

Alex Duarte, Commissioner

Bob Rice, Commissioner

Ron Roome, Commissioner

Cassandra SkinnerLopata, Commissioner

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