Thursday, January 25, 2018
9:00 A.M. Commissioners present were Jennifer Currin, Michael Harper, Matthew Maletis, Marvin Révoal, Pamela Weatherspoon, and Chairman Paul Rosenbaum. Executive Director Steve Marks attended along with members of staff.

CONTESTED CASE HEARINGS

Christina Pan

Nicole Mitchell, Administrative Policy and Process Division presented this case on behalf of the commission at the administrative hearing. A proposed order was issued by the ALJ on October 30, 2017. Ms. Mitchell submitted comments to the proposed order and appeared before the commissioners to speak to her comments and to ask the commission to adopt the Proposed Order and ALJ amendments as the Final Order. Commissioners had no questions for Ms. Mitchell. Permitee Christina Pan submitted exceptions to the proposed order and was present to speak to her exceptions. Ms. Pan believed that she did show good cause and referenced several letters submitted to the OLCC.

Commissioner Currin asked the permittee if she felt she had a duty to research her record before filling out the application and how long it took her to fix the problem once she found out there was one. Ms. Pan said that she made a mistake but she did not believe she had incorrect information so she didn’t think to go to the courts. It took her just a few minutes to get her record from the courts.

Commissioner Harper asked Ms. Pan if there was a reason she did not follow up with OLCC staff. Ms. Pan said that she kept in contact with Ms. Mitchell and that she does not believe that many of the calls reported from inspector Fetterly were made as she obtained her phone records and they were not listed them.

Commissioner Currin said that the record shows Ms. Pan has had no prior history of failing to comply with OLCC rules and asked Ms. Mitchell if the board is suppose weight each good cause factor equally or can they give this factor more weight than other factors that don’t seem as important such as passage of time? Ms. Mitchell said it is a balancing act with the factors. Ms. Mitchell also noted that Ms. Pan has had a restricted permit so she has been through the process.

Chairman Rosenbaum said that the board is not interested in revoking Ms. Pan’s permit without good cause and asked what she has done to keep her sobriety for the past four years. Ms. Pan outlined what she has done.

RECESS at approximately 9:28 am for in chambers deliberation of contested case
RECONVENE at approximately 10:25 am decision on contested case

Chairman Rosenbaum moved to continue the matter to the February commission meeting and asked for a second. Commissioner Currin seconded the motion.

Passed 6/0

COMPLIANCE

Tom Mott, Administrative Policy and Process Division presented the stipulated settlements to the commission.
**Marijuana stipulated settlement agreements**

There were three marijuana stipulated settlement agreements before the Commissioners for ratification; Hotbox Farms, Dreamfield Transfer Services and TMW Farms.

Commissioner Harper asked about the product amounts listed in the TMW file. Mr. Mott said those were the quantities listed in Metrc tracking system.

Commissioner Harper asked what OLCC staff will do in regards to destruction of product. Mr. Mott said this licensee is a producer licensee. Their license type does not allow them to possess extracts which they had on their premises. The OLCC inspector will be present during the destruction and it will be done in accordance with OLCC rules and other state agency rules. Generally extracts are absorbed in sand or cat litter. Commissioner Harper wanted to ensure that OLCC inspectors are aware of processes that don’t impact the environment.

Commissioner Revoal moved to ratify the three settlement agreements as proposed by staff.  
Passed 6/0

**Alcohol stipulated settlement agreements**

There were five liquor stipulated settlement agreements before the Commissioners for ratification; Baked Alaska, Mi Tiendita Mini Restaurant, Tilt Handcrafted Food Built for the American Workforce, Rusty’s Pancake & Steak and Oregon Spirit Distillers / The Barrel Thief.

Commissioner Weatherspoon moved to ratify the five settlement agreements as proposed by staff.  
Passed 6/0

**Licensing stipulated settlement agreements**

There were three licensing stipulated settlement agreements listed on the agenda. Mr. Mott asked the board to remove Hop and Brew from consideration leaving Hem 23 Vietnamese Bar & Grill and El Palacio before the Commissioners for ratification.

Commissioner Harper asked why there were no fees associated with the Hem 23 agreement. Mr. Mott explained that the restriction on this application is based on a prior violation of failing to have LLI on one of the licensees other establishments. Therefore, going forward, this restriction is placed on future license applications.

Commissioner Weatherspoon moved to ratify the two settlement agreements as proposed by staff.  
Passed 6/0

**RULES**

Bryant Haley, Administrative Policy & Process Division presented  
**Temporary and Initial Action / Marijuana Sale to Minor Package**

Commission staff has recently stepped up its efforts to ensure marijuana retail licensees are not selling marijuana items to minors. Specifically, staff has implemented a minor decoy program to test licensees’ compliance, as set forth in OAR 845-025-8570. During recent minor decoy operations, staff has discovered a concerning amount of sales to OLCC minor decoys.
In response, staff sees it necessary to escalate both compliance operations and the penalty schedule for a sale to minor. Specifically, staff is proposing to increase the penalty for an unintentional sale to minor to a 30 day license suspension or a fine of four thousand nine hundred and fifty dollars for the first offense. Further, staff is proposing to increase an intentional sale of marijuana to a minor to Category I violation, which would result in license revocation. Staff sees this issue as a threat to public safety and believes temporary rulemaking is necessary to reinforce with the marijuana industry that the Commission views any sale to a minor as one of the most egregious violations a licensee can commit.

Commissioner Revoal noted that from the beginning of marijuana implementation, the commission received stakeholder input to develop rules. Many were concerned the agency was being too stringent in the beginning but the board said that if, overtime, the rules were too strict in some areas, they would be relaxed. Additionally, if they needed to be tighten down, that would also be done. Unfortunately, there are people in this new business arena who do not feel they need to follow the rules and regulations. For that reason, we will provide more education and when necessary, penalties. Commissioner Revoal noted that if necessary, the agency can become more restrictive.

Commissioner Harper noted that with the increase in OLCC inspectors, we have an opportunity for increased education. Commissioner’s Harper, Currin and Maletis all agreed with Commissioner Revoal’s comments.

Chairman Rosenbaum also agreed. He noted that the board can make the decision but it is the staff who has to make it happen. He applauded staff for the good work on this rule change.

Executive Director Marks noted that the rule is temporary and goes into effect for 180 days. During that time, staff will continue the minor decoy missions and release the results. Staff will stay on it until we get better results. The board will be able to evaluate what they would like to see for penalties in the permanent rule at the end of this period. The board may consider the disparity of how we handle alcohol verses marijuana in this area.

Commissioner Harper moved to temporarily amend 845-025-5590, 845-025-8520, 845-025-8590 effective January 26, 2018 and hold a rulemaking hearing at staff’s discretion.

Passed 6/0

Mr. Haley gave a rule update that staff will be moving forward with packaging and labeling rules that are part of the medical transition. The rules advisory will meet mid-February and depending upon the industries reaction to the language, the rule will come back to the board in April or May of this year.

ADMINISTRATION

2018 Legislative session update
Ranee Niedermeyer, Director of Government Affairs and Communications, presented.

• The 2018 legislative session is slated to start on Monday, February 5 and end on Friday, March 9
• Only 5 weeks long so legislation will be moving quickly through the process
• 242 bills listed on OLIS – Oregon’s Legislative Information System
• Many of these bills will be modified significantly when and if they make it through the process
o **SB 1544** Senator Prozanski’s medical marijuana bill:
  - focused on OHA’s medical marijuana program but impacts OLCC as we track OHA growers with more than 12 plants and process for medical card holders
  - labeling and packaging by OLCC processor when processed for cardholder or caregiver
  - grow site address definitions
  - OHA medical grow mature and immature plant limits
  - Number of growers on a site and number of cardholders a grower can grow for

o **HB 4110** Representative Helm’s marijuana special events bill:
  - allows OLCC to issue a special events licensee to a marijuana licensee
  - Entitles licensee to offer free samples of marijuana items at special event
  - Requires industrial hemp commodities sold by a OLCC retailer to carry a label that reads “This product is derived from industrial hemp and should not be confused with similar products derived from marijuana”

o **HB 4089** Representative Wilson’s hemp bill:
  - Creates an Oregon Industrial Hemp Agricultural Pilot Research Program at the State Department of Agriculture
  - Creates a program for labeling and certification of agricultural hemp seed
  - Charging for sampling or testing of industrial hemp or hemp products
  - An OLCC processor, retailer or wholesaler may purchase, receive, transfer, sell or transport industrial hemp or hemp products that contains cannabinoids and is intended for human consumption only if:
    - Registered by OLCC
    - Meets the requirements of rules of the commission
    - Tracking in CTS system (Current form at Laboratory, OLCC wants tracking from the grow site)
    - State Department of Agriculture shall develop standard identification documentation

o **SJR 201** Senator Winters constitutional amendment:
  - Requires three-fifths of members of each house to pass increase in taxes or fees
  - Impacts OLCC because marijuana program is funded by fees

o **SB 1555** Senator Steiner Hayward distribution of marijuana taxes:
  - Expands purposes for which Mental health funds (20% of revenue) may be used – mental health treatment or alcohol and drug abuse prevention, early intervention and treatment

o **SB 1564** Senator Beyer’s distillery license bill:
  - In one location, allows distillery licensee to apply for a tasting room permit or special event license and sell up to $500,000 of product annually without remitting a state mark up

o **SB 1566** Governor Kate Brown’s bill in response to UAL PERS task force:
  - Revenues received over estimated marijuana taxes transferred to PERS fund
  - Revenues received over estimated wine, cider and malt beverage privilege tax transferred to PERS fund

o **SB 1531** Senator Frederick’s law enforcement officer bill:
  - Requires law enforcement officer (includes OLCC’s regulatory specialists) to meet with a mental health professional at least once every two years (not a mental health evaluation), and the cost is paid by the agency.

o **OLCC Budget Request bill**
- **Chief Information Officer (CIO) position $197,175 - $273,925 for biennium**
  - Strategically manage information needs of a complex $1.3 billion industry including renegotiation of contracts and migrating our existing systems to modern platforms
  - Position approved by DAS
  - Need funding and position authority
- **Providing Near-Term Redundancy for Disaster Recovery $400,000**
  - Replicating servers and disk storage in Milport facility
  - Takes immediate steps to establish a redundant hot site for critical computer systems and enable OLCC to evaluate future options for geographically remove site
  - Secured fiber optic line approval from Oregon’s Chief Information Officer’s Office but need funding
- **DAS required SAP software upgrade $180,000**
  - Agency is required by DAS to upgrade to a new software version but needs funding
- **Medical Marijuana (SB 1057) regulatory specialists $2.2 million**
  - 13 regulatory specialist, paid by marijuana tax dollars
  - Agency received 7 positions in 2017 legislative approved budget of the program but it did not include regulatory specialist required for inspections and investigations
  - As of December 1, 2017 deadline the OHA has reported a total of almost 2,000 medical growers, dispensaries and processors that have elected to be tracked by OLCC.
  - Almost 400 have indicated they plan to apply for an OLCC recreational license.
  - Approximately 9,000 growers have yet to declare their intentions.
- **Administrative support positions for Marijuana Licensing request - $341,287**
  - 3 administrative support positions to support licensing unit activities and with the manual components of the licensing renewal process
- **Geographic Information System (GIS) tracking position$51,122**
  - Continues the limited duration position and funding
- **Online privilege tax (HB 2150) $300,000**
  - Funding for planning which was supposed to be included in 2017 session
  - Will be going out for RFP to get more precise costs
- **Marijuana Fee approval** $500 hemp certificate, $100 medical designated canopy registration

- Tight deadlines apply to all committees except Ways and Means, Finance and Revenue, Rules, and Jt. Committees:
  - Work sessions in chamber of origin no later than Feb. 9 (Friday of first week)
  - Vote in first chamber no later than Feb 15 (Thursday of second week)
  - Work sessions in second chamber by Feb 22 (Thursday of third week)
  - Vote in second chamber no later than Feb 27 (Tuesday of fourth week)
  - 15 potential committees – House and Senate Business, Revenue, Agriculture, Health Care, and Judiciary, Rules and Ways and Means
In regards to HB4110, Chair Rosenbaum asked how the special event rules the board just passed will affect the current legislation. Jesse Sweet, Director of Administrative Policy and Process stated that the rules the chairman is referring to are promotional event rules. Under the current rule, marijuana items can be taken to an unlicensed location and displayed. The new legislation proposes to allow that same thing but the marijuana can also be distributed as samples to attendees. Chair Rosenbaum asked what the agency’s position is on the bill. Mr. Sweet said don’t have an official position on the bill if this bill moves forward. The agency would work to obtain sufficient authority to be able to control this type of event. Currently the legislation is drafted very broadly. Mr. Sweet noted in order for the agency to take an official position on the legislation, we would need to go through the Governor’s office. Chair Rosenbaum stated that staff will clearly be affected by this and it seems the agency should have a position on it. Director Marks said he will be working with the commissions view and the Governor’s office. He believes the agency will be able to negotiate this legislation on a technical basis with public safety. He will keep the commission informed to make sure that we are on track with their wishes.

Chairman Rosenbaum asked Ms. Niedermeyer to continue to update the board on the legislative session for the next two months.

Commissioner Currin asked if Ms. Niedermeyer believes that there will be anything done in the legislature due to the temporary rule approval at this meeting. Ms. Niedermeyer said that the few legislators she and Steve have talked to are supportive of the change.

**Commissioner feedback on OLCC business not on the agenda**

Steve Marks, Executive Director, reported the Secretary of States audit would be released on February 7, 2018. Staff is currently forming the agency response. Director Marks believes the audit is fair and will be helpful in improving our marijuana IT systems and our disaster recovery systems. There is a point that will be made clear in the agency response which is how much service we actually get out of the cannabis tracking system, what that data means to us and that we are putting it to good use. The system is supported by other key features. It is people driven in the end to verify the information.

Mr. Marks talked about speaking at the Cannabis Collaborative Conference the day before. The conference went very well. Rick Garza, Washington Executive Director, presented along with Mr. Marks.

Mr. Marks and several staff from Public Safety organized a meeting in January with State police and local law enforcement in Southern Oregon to follow up on discussions held in September 2017. The group discussed where we are in enforcement. One thing that was clear, is US DOJ is looking for OLCC to do a detailed analysis of the supply in the recreational system and where it goes. We are coming up on a full cycle so before the 2019 session, we should have a full report. It will be a good opportunity for OLCC to show a full picture of: supply of product, where it goes, phases of drying and how much marijuana goes into making the products.

Mr. Marks and Deputy Director Higlin will be attending a summit called by the US DOJ on February 2, 2018. Mr. Marks noted that with a post Cole Memorandum world, it is important for the OLCC to have a relationship with the Federal government and to continue to coordinate with them in all criminal matters. The summit will be a great opportunity to get the Federal government educated on the issues we face ie: water rights, land use issues.

Mr. Marks told the board that the agency’s Director of Finance has given notice and thanked Ms. Davis for her great work and service.
Chairman Rosenbaum asked about the remodel project for the commission room to accommodate all the commissioners. Mr. Marks said he would get a full report and time line to the board.

**Working brunch – Commissioner training in Room 103B**
Commissioners met with staff and agency attorney for training on the following topics.

- Public meetings law
- Contested cases
- Sanction schedule

**Meeting adjourned at approximately 12:00 pm.**