

OREGON LIQUOR CONTROL COMMISSION MINUTES

September 17, 2010

Friday, September 17, 2010

9:00 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, and members of staff.

Minutes – Commissioner Roome moved to approve the minutes of the August commission meeting. Passed 5/0.

PUBLIC FORUM

No one was present for Public Forum.

COMPLIANCE

Becky Voelkel, Administrative Policy and Process Program presented.

There were 9 settlement agreements before the commissioners for ratification; University Club of Portland, Jake's Bar & Grill, North Bar, Arco AM PM #83164, Hump's Restaurant & Lounge, Thai Dish, Yamhill Shell Food Mart, Qdoba Mexican Grill, and The Cruise Inn.

Commissioner Duarte moved to ratify the 9 settlement agreements. Passed 5/0.

LICENSE MATTERS

Farshad Allahdadi, License Services Division presented.

Service Permit Refusals- There were 7 service permit refusals before the Commissioners for ratification.

Commissioner SkinnerLopata moved to ratify the service permit refusals under Tab 2A. Passed 5/0.

RULES

Jennifer Huntsman, Rules Coordinator, presented.

FINAL ACTION

OAR 845-005-0327

At the May 2010 meeting the Commission initiated action to repeal this rule. Per the requirements of ORS 183.335(2)(b)(G), we requested public comment on whether other options should be considered for achieving the rule's goals while reducing negative economic impact of the rule on business. A Notice of Rulemaking was published in the July 1, 2010 Secretary of State's Bulletin. We did not receive any comments and did not convene an advisory committee.

Commissioner Duarte moved to repeal the rule. Passed 5/0.

ADMINISTRATION

Proposed Amendment to Redemption Center Order- Donna Vandall presented. OLCC has received notification from Oregon Beverage Recycling Cooperative (OBRC) that one of the stores participating in the Wood Village Redemption Center has withdrawn as a participant in the

Redemption Center. John Anderson of OBRC was present to answer any questions and provide more information on the situation.

Chairman Lang asked if Walmart's withdrawal from the redemption center would have any financial impact on OBRC. Mr. Anderson said that he did not believe it would.

Chairman Lang asked if this was a corporate decision of Walmart or just an individual decision. Mr. Anderson said the corporate response was that for the time being they will withdraw. OBRC will review what impact the redemption center has on the returns at Walmart. Commissioner Rice asked if it was necessary for Mr. Anderson to come before the Commission for every change to the operating plan. Ms. Vandall indicated that the statute requires the order to list the participating dealers, although this was something that Commissioners could look at delegating to staff in the future should they choose to do so. Commissioner Rice asked if once the center is operating, after being established, if this would still be the process as required by statute. Ms. Vandall said that she believes it would still be required to be done in this manner and the statute is very specific in what is required in this order. Commissioner SkinnerLopata asked if there was any indication from the other participants that they would consider withdrawing. Mr. Anderson said that they are committed 100%. Chairman Lang commented that OBRC may wish to consider asking the legislature to amend the statute to streamline the redemption center establishment process in the future. Mr. Anderson said that they have been very impressed by the support and cooperation and diligence of OLCC in this process. Chairman Lang expressed concerns about this type of situation and explained that he asked Mr. Anderson to come to the meeting in case other Commissioners had questions about the situation.

Commissioner Rice moved to amend the order approving the Redemption Center for Wood Village location to delete Walmart as a participating dealer and to list Safeway and Fred Meyer as the dealers to be served by the center and issue the order as amended. Passed 5/0.

RETAIL SERVICES

Brian Flemming, Retail Services Director, presented

Distillery Agent Appointment House Spirits-

Lee Medoff has resigned to start a new distillery. Christian Krogstad has applied to be the new agent of House Spirits. Commissioner Duarte moved to appoint. Passed 5/0.

Agent Appointment Creswell, 1153 –

This appointment returns from the August meeting. Commissioners temporarily appointed Herbert Bohner, and asked that he return with more information. Herbert and Glenda Bohner appeared before the Commissioners. Chairman Lang commented on Commissioners' concerns from the previous meeting. Commissioner Duarte asked why Glenda was not the applicant. Mr. Bohner said it was because of the way their finances are arranged that he applied even though Mrs. Bohner will be the primary manager. Commissioner Duarte moved to appoint Herbert Bohner. Passed 5/0.

Recessed- 9:30 a.m.

Reconvened in Room 120 for Work Session- 9:45

Chairman Lang welcomed everyone and explained how this worksession came to be. Farshad Allahdadi, License Services Director, reviewed the agenda for the worksession which includes license decision delegation policy, license criteria reports, license innovation debrief, and paths for policy change.

Discussed which types of license decisions Commissioners wish to retain and which they wish to delegate to staff. Chairman Lang commented that some of the denial criteria interpretation is where he sees some room for improvement. Discussed instances where we receive an unfavorable recommendation that is not a denial basis. Current process is to send all unfavorable recommendations to Commissioners, but delegation policy asks that only unfavorable recommendations that meet certain denial criteria are sent to Commissioners. Commissioner SkinnerLopata commented on her desire to see more cases with opposition rather than less. These would be more for information than decision making. It would give Commissioners the opportunity to ask questions and educate public on how decisions are made. Commissioner Rice suggested that there be a report submitted with commission materials outlining the more difficult staff decisions, criterion reports for example. The synopsis will be sent hard copy and pdfs of the entire report would be available by email. Commissioner SkinnerLopata said she didn't have enough information to answer the policy/practice issue but would support seeing more cases at commission rather than less. Commissioner Roome asked that some of the decisions where a change could be made in past precedent could be set up in a way that would let them know what they needed to evaluate in order to take things in a different direction. Commissioner SkinnerLopata voted to modify policy to mirror current practice. Chairman Lang asked what kind of communication happens between applicant and LGB when there is a negative endorsement but no denial criteria. Mr. Allahdadi said that the report is sent to both the applicant and the LGB. There is a conversation with the LGB about why there was a negative endorsement and a confirmation if there are any reasons that there are legitimate denial criteria. Commissioners Roome, Duarte, Rice and Chairman Lang also supported making the policy mirror practice. Commissioner Rice added the caveat that we take the no legitimate denial criteria items at phone meetings to help people move through the process. Discussed significant public opposition policy.

Criteria reports were reviewed in detail. Overall there were no structural changes recommended. Commissioner SkinnerLopata asked why the statute or rule are paraphrased in criteria reports. Mr. Allahdadi said it was due to the condensing of part of the rule that is being analyzed. It was determined that the rules and statutes are excerpted, not paraphrased and should be referred to as such in the future.

Discussed additional information outside of the criteria. Commissioners indicated they would rather have all of the information provided to help them make an informed decision.

Policy change discussion on using statutes and rules vs. making policy change per commission decision. Chairman Lang indicated that he would rather have the changes made at a rulemaking level if it is something that there would be public interest as the process provides more opportunity for public input. Commissioner SkinnerLopata asked if there could be specific areas noted that staff would like to see addressed.

Mr. Allahdadi gave a report on the License Innovation workgroup. Areas of review by this group were risk based licensing criteria and fees; new license types (e.g. cabaret); positive incentives; LGB and public notice processes; zoning and land use.

Chairman Lang commented that this worksession format was very helpful and suggested we have another at a future meeting to review compliance.

Adjourned 1:30 p.m.

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