

# OREGON LIQUOR CONTROL COMMISSION

## MINUTES

November 18, 2011

**Friday, November 18, 2011**

9:00 A.M. The Commissioners present by phone were Alex Duarte, Michael Harper, Bob Rice, Ron Roome, and Chair Cassandra SkinnerLopata. Executive Director Steve Pharo, and Deputy Director Merle Lindsey attended in person along with members of staff.

**Minutes** – Commissioner Rice moved to approve the minutes of the October 27-28, 2011 meeting. Passed 4/0.(Commissioner Duarte abstained from voting as he was not present at that meeting.)

### **PUBLIC FORUM**

No one appeared under public forum.

### **COMPLIANCE**

Becky Voelkel, Administrative Process Program presented.

There were 13 settlement agreements before the commissioners for ratification; Helen's Market; Food Mart; Justa Pasta Co.; Ontatio Grocery Outlet; Stockman's Market; 174<sup>th</sup> Market and Deli; Ling Garden Restaurant; The Bistro; Seventh Mountain Resort; El Caporal; Los Arcos; Torta Express; and Dufur Pastime Restaurant and Saloon.

Commissioner Duarte moved to ratify the 13 agreements. Passed 5/0.

### **LICENSE MATTERS**

Gwenn McNeal, License Services Division, presented.

#### **Service Permit Refusals-**

There were six service permit refusals before Commissioners for ratification.

Commissioner Roome moved to ratify the six refusals. Passed 5/0.

#### **Service Permit Settlement Agreements-**

A settlement agreement for Craig E Tidwell is before the Commissioners for ratification.

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

### **RULES**

Jennifer Huntsman, Rules Coordinator, presented.

#### **PETITION FOR RULEMAKING/POSSIBLE INITIAL ACTION**

#### **OAR 845-006-0396 Requirements for Same-Day and Next-Day Retail Delivery of Malt Beverages to a Resident of Oregon**

We have received a petition from Nathaniel Paschal (Restaurant Retrievers LLC). The petitioner requests to amend this rule so that up to 1.25 gallons of malt beverage can be

delivered same-day to a resident until 9:00 p.m., with the later order placement deadline of 8:00 p.m.

### **OAR 845-006-0392 Requirements for Direct Shipment of Wine and Cider to a Resident of Oregon**

Because this rule and the rule being petitioned contain parallel language regarding same-day delivery requirements, for consistency, staff recommends that rulemaking for this rule governing wine & cider also be initiated if the petition to amend OAR 845-006-0396 governing malt beverages is accepted.

Petitioner Nathan Paschal appeared in person and explained his reason for the petition and was available for Commissioners' questions. He noted that there are businesses currently operating out of compliance with the 4pm order deadline for same day delivery. Ms. Huntsman pointed out that the sanction for that is a Category III violation, and in the past three years, there have been no violations issued.

Commissioner Harper clarified the time constraint issues in current rule with Ms Huntsman. She noted that the 4pm cut off for same day orders requires more pre-planning as most delivered dinner customers place their orders between 5 and 7pm. The advisory committee in 2008 was looking primarily at grocers when these delivery rule changes were contemplated.

Commissioner Rice asked if this issue was just overlooked the last time this rule was opened for consideration or if there was a reason for the 4pm cut off time. Ms. Huntsman replied that it was just not contemplated during the advisory committee the last time the rule was open. She believes this issue is worth exploring through an advisory committee.

Commissioner Rice moved to accept the petition for rulemaking to amend OAR 845-006-0396 to initiate rulemaking on this matter as well as the amendment of OAR 8445-006-0392, and to hold a rulemaking hearing on these matters at staff's discretion. Passed 5/0.

### **RETAIL SERVICES**

Brian Flemming, Retail Services Director, presented.

**Distillery Agent Appointment-** John Rudi of Bull Run Distillery has submitted an application to be appointed as agent at the 2259 NW Quimby St., Portland location. This appointment would allow for bottle sales at that location.

Commissioner Roome moved to appoint John Rudi as the permanent distillery retail sales agent at Bull Run Distillery effective December, 2011. Passed 5/0.

**Distillery Agent Appointment-** James Stegall of Hard Times Distillery has submitted an application to be appointed as agent at the 175 S 5<sup>th</sup> St. Junction City location. This appointment would allow for bottle sales at that location.

Commissioner Roome asked how much weight is given to the submitted financial statement. Mr. Flemming noted that there is some, but that many distillers are tiny start ups and it is common to see very little financial base as they begin operations and operate on a small margin. He noted that the sales also generate profit back to the company. Commissioner Roome asked if the commission determines liability coverage. Mr. Flemming said that it is part of the contract which is verified once an agent appointment has been made.

Commissioner Harper moved to appoint James Stegall as the permanent distillery retail sales agent at Hard Times Distillery effective December, 2011. Passed 5/0.

Adjourned 9:35 A.M.

\_\_\_\_\_/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