

OREGON LIQUOR CONTROL COMMISSION
MINUTES
April 25-26, 2013

Thursday April 25, 2013

8:00 a.m. The Commissioners present were Michael Harper, Rob Patridge, Bob Rice, Pamela Weatherspoon and Chair Cassandra Skinner. Interim Executive Director Merle Lindsey attended along with members of staff.

MINUTES

Commissioner Patridge moved to approve the minutes of the March 15, 2013 commission meeting.

Passed 5/0

PUBLIC FORUM

No persons signed-up to speak.

RETAIL SALES AGENT UPDATE

Agent Denny Stoll of the North Salem liquor store and President of Associated Liquor Store Organization (ALSO) appeared before the commission. Mr. Stoll invited the commissioners to attend the June 14, 2013 Distilled Spirits Trade Show at the Holiday Inn Airport Express. Mr. Stoll opened with some comments regarding the transitioning of the old and new liquor agents at the West Slope Liquor Store. Mr. Stoll also updated the commissioners about the agents second day at the capital which took place on April 16, 2013. Several agents met with over 40 state legislators to educate them on the role the OLCC and liquor agents play in Oregon's economy. Discussion topics included store locations, the effect of Washington's privatization and agent's compensation, including the 25 cent surcharge. Mr. Stoll told the board that he would present his testimony on the surcharge at tomorrows meeting.

CONTESTED CASE HEARINGS

Don's Dugout, OLCC 12-V-065, 065A, 065B LLC Don Douglas; Managing Member, Janice Douglas; Member

A proposed order was issued on March 5, 2013. Case Presenter, Anna Davis, represented the OLCC at the administrative hearing and presented staffs comments to the Proposed Order to the commissioners. Licensees, Don & Janice Douglas and licensee's attorney, William Macke, were present. Mr. Macke filed exceptions to the Proposed Order and spoke to those exceptions.

Cindy Parker, OLCC 12-SPR-016R

Gwenn McNeal presented the case to the board. A Proposed Order was issued on October 24, 2012. Case presenter Ms. Parker appeared by phone to speak to her exceptions to the proposed order.

8:40 am RECESS IN CHAMBERS DELIBERATION OF CONTESTED CASES

9:50 am RECONVENE

Decisions on contested cases

Don's Dugout, OLCC 12-V-065, 065A, 065B

Commissioner Harper moved to amend the Proposed Order per the list that will accompany the minutes and adopt the amended order as the final order. **Passed 5/0**

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Cindy Parker, OLCC 12-SPR-016R

Commissioner Patridge moved to continue deliberations on this matter until the June Commission meeting. **Passed 5/0**

Continued Deliberations

Danielle Denfeld, OLCC-12-SPR-015

Commissioner Weatherspoon moved to adopt the Proposed Order of the ALJ as the Final Order. **Passed 5/0**

Savanna Kapetanakis, OLCC-12-SPR-014

Commissioner Rice moved to adopt the Proposed Order of the ALJ as the Final Order. **Passed 5/0**

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

Commissioner Patridge moved to withdraw the Final Order completely so the order is no longer in effect. **Passed 5/0**

RULES

PETITION FOR RULEMAKING/POSSIBLE INITIAL ACTION

Annabelle Henry Administrative Policy & Process Division presented.

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

On February 6, 2013, a petition was received from Obanskye, LLC dba Pony Express Restaurant Delivery Services to amend OAR 845-006-0392. The petition seeks to: receive an order for the same day delivery of wine or cider until 9:00 pm on the delivery date and deliver such an order until 10:00 pm on the same evening. The current rule prohibits a licensee from accepting such orders after 7:00 pm and making such deliveries after 9:00 pm on the same evening. The petitioner is not requesting the amount of alcohol for delivery to be changed. The current same day delivery amount limit is 2 bottles, approximately 750 ml.

Commissioner Harper asked if this rule pertains to distilled spirits and if the time and amount are different for distilled spirits. Ms. Henry stated that this rule does not address distilled spirits and except for a licensee, we do not allow delivery of distilled spirits. Commissioner Rice moved to accept the petition to initiate rulemaking to amend OAR 845-006-0392, and to hold a rulemaking hearing at staff's discretion. **Passed 5/0**

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

On February 6, 2013, a petition was received from Obanskye, LLC dba Pony Express Restaurant Delivery Services to amend OAR 845-006-0396. The petition seeks to: receive an order for the same day delivery of malt beverages until 9:00 pm on the delivery date and deliver such an order until 10:00 pm on the same evening. The current rule prohibits a licensee from accepting such orders after 7:00 pm and making such deliveries after 9:00 pm on the same evening. The petitioner is not requesting the amount of alcohol for delivery to be changed. The current same day delivery amount limit is 1.25 gallons or approximately 2 six packs. Ms. Henry stated there has been one public comment received which is in the commissioner's packet.

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Commissioner Rice moved to accept the petition to initiate rulemaking to amend OAR 845-006-0396, and to hold a rulemaking hearing at staff's discretion.

Passed 5/0

INITIAL ACTION

OAR 845-015-0205 Satellite Liquor Stores

The proposed new rule establishes the procedures and standards that the Commission would use to locate and evaluate regular Satellite Liquor Stores. If adopted, the proposed new rule would also allow the Commission to convert temporary Satellite Liquor Stores into regular Satellite Liquor Stores prior to the expiration of their pilot program agent agreements if desired. Commissioner Harper moved to initiate rulemaking to adopt OAR 845-015-0205, and to hold a rulemaking hearing at staff's discretion.

Passed 5/0

FINAL ACTION

Jesse Sweet Administrative Policy & Process Division presented

OAR 845-Divisions 5 & 6 Outdoor Area Package

In March of 2012, the Commission granted an annual liquor license to the owners of a property on which food service is provided by food carts and alcohol is sold and consumed in a delineated outdoor area. Taking into consideration the unique nature of an annually licensed premise that consists solely of an exterior area where alcohol is served and consumed, the Commission placed substantial operational restrictions on this license.

In June of 2012, the Commission denied a petition to initiate rulemaking to prohibit the issuance of annual licenses to exclusively outdoor areas. However, the Commission expressed a desire to promulgate rules regulating such areas.

The proposed rules package distinguishes between outdoor areas that do not abut a licensed building and outdoor areas that do abut a licensed building and clarifies the licensing qualification standards and operational requirements that apply to these two different types of outdoor areas.

Proposed rule OAR 845-005-0329 sets forth the licensing qualification standards that would apply to outdoor areas which do not abut a licensed building and is designed to operate in conjunction with proposed rule OAR 845-006-0309, which sets forth the operating requirements that would apply to these outdoor areas.

Proposed rule OAR 845-006-0310 sets forth the operating requirements that would apply to outdoor areas that do abut a licensed building.

The proposed amendments to OAR 845-005-0331 clarify the licensing qualification standards that would apply to outdoor areas that do abut a licensed building and distinguish these areas from the exclusively outdoor areas addressed in OAR 845-005-0329.

The following people signed up in-favor of the rule change:

Andy Smith, Officer Dave Jackson and Theresa Marchetti from the City of Portland, appeared before the Commission. Mr. Smith stated, he appreciated staffs hard work and effort put into the rules thus far. At the March Public Hearing, Mayor Charlie Hales read testimony on a few outstanding concerns the City had with the proposed

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language. Mr. Smith encouraged the board to allow staff to continue to work with the City to get to a place of agreement and bring the rule package back to the June meeting. Officer Jackson spoke to the revisions made after the Public Hearing which replaced “licensed exterior area” with “outdoor area”. Mr. Jackson stated the new proposed language will make it difficult for OLCC inspectors and local law enforcement to enforce. Officer Jackson stated, he is also concerned how an outside area that is not abutting a license premise would achieve a minor 3 posting. Ms. Marchetti had nothing more to add, but was available to answer questions.

The following people signed up in-favor/w changes to the rule change:
Susan Pearce, chair of Hosford Abernethy Neighborhood Development Association (HAND), spoke to the board about her reservations with the proposed rule language. She is in favor of the rule but would like to ask the board to revise the patio hours to stop serving from 10:00 pm to 7:00 am, seven days a week. Commissioner Patridge asked Ms. Pearce if she is aware that the police can enforce the noise ordinance.

Linda Nettekoven said the city does a great job of enforcing the noise ordinance but it does not take into consideration conversations. Ms. Nettekoven believes that the rule does not go quite far enough in terms of the exterior areas that are abutting the license premises. She spoke about many of the negative effects linked to sleep deprivation which is the case for residents surrounding these premises.

Mary Ann Schwab, community advocate, spoke to the deficiency of having a buffer area requirement in the proposed rule, parking issues and the proposed times. She supports a closing time of 10 pm to 7 am and 11 pm on Friday and Saturday.

Christine Heycke, citizen, supported changing the closing hours to 10 pm - 7 am, seven days a week.

The following people signed-up in Opposition to the rule change:

Susan Moody, Captured by Porches, is in opposition to the proposed language of OAR 845-005-0329 2(f). She is in the process of applying for an annual license at her Alberta street location where she currently holds a special event license. Ms. Moody stated her cart is located within a 1500 sq. gated lot which has one entrance and one exit. If Ms. Moody had to install a “physical barrier” as a designated exterior area as the proposed language requires, it would put her out of business. She stated the language caters to large businesses (cartlandia) but it does not work for her business model. She encouraged the board to ask staff to continue to work with others to modify the language. Commissioner Rice asked if her objection is to the designated area or the physical barrier. Ms. Moody stated the requirement of “designating an area” for alcohol is the part she has an issue with. Mr. Sweet clarified that 845-005-0329 was intended to mean, an area must be designated but, in certain circumstances, the entire outdoor licensed area could be designated. This must work in conjunction with section 2(g) of the rule which requires adequate supervision. The licenses would need to be looked at on a case by case basis.

Brian McMenamin, owner of McMenamins, appeared before the board to state his opposition to the proposed rule which would not work for many of his establishments located on large acreage. Commissioner Harper asked how the rule change would affect his businesses. Mr. Mcmenamin said that it would not shut him down but it would drastically affect the business hours, the company income, and his employees.

Mr. Sweet clarified that 845-006-0310 (1) would exclude areas that could accommodate 500 people or more. The rules are not written to include large venues such as Mr. Mcmenamins, the Les Schwab Amphitheater or the Oregon Shakespeare Festival.

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Bill Perry, Oregon Restaurant and Lodging Association, appeared before the commission. Mr. Perry stated they are ok with the rule which addresses food cart areas but they are concerned with the non-abutting patios which he guessed would affect over a thousand properties state wide. Commissioner Harper asked if the proposed rules would affect golf courses. Mr. Sweet stated it depends if the entire course is licensed or if only the club house is licensed and if the course could accommodate 500 people. Chair Skinner asked Mr. Sweet to explain further about the opposition to minor 3 posting and the "buffer area". Mr. Sweet stated 845-005-0329 speaks to the minor posting requirements and the unique circumstances of exclusive outdoor areas where drinking should not be predominate. The buffer area was discussed at length at both Advisory Committee meetings. The proposed language was chosen because 300 feet, which is approximately the size of one Portland city block, would capture too many premises.

Mayor Charlie Hales appeared before the board. Mr. Hales appreciates the OLCC's work on the issue but he feels that the balance between licensee and citizens is not quite met yet. Mayor Hales gave different examples of current circumstances, Clinton Street and Old Towne. The rules need to work for individual local governments around the entire state and particularly in Portland because of density. Commissioner Patridge said he believes this is a very prescriptive approach that could have unnecessary consequences to other areas outside the city. He asked Mr. Hales, why the City does not beef up city ordinances on noise rather than adopting a rule which is prescriptive. Mayor Hales stated there are limits on their authority in regards to noise regulations. Andy Smith joined the Mayor to speak to the level of their authority on noise regulations and their efforts in Salem to request more local authority. Commissioner Patridge asked the City of Portland to follow up with the OLCC Executive Director and staff in regards to their needs. Chair Skinner asked Mr. Sweet if there is anything that requires the board to take final action today or could they defer to a further meeting. Mr. Sweet stated they could amend and adopt or defer. Commissioner Rice stated he is concerned with putting two very different issues together in one package, he advocated the rules be voted on separately. Mr. Sweet pointed out there is four separate motions but if the board should adopt any of the first three rules, the fourth rule, OAR 845-005-0331 should be amended because it clarifies the difference between the two types of areas. Commissioner Patridge proposed to direct staff to continue to work with the City of Portland on the non-abutting rules, 845-005-0329 & 845-006-0309. Judith Bracanovich, Administrative Policy and Process Director came to address the board and stated she heard the City saying they had issue with the patio portion of the rule. Commissioner Patridge said he does not want to see staff waste time on the patio portion until the City meets with OLCC staff.

Commissioner Rice moved to decline to adopt OAR 845-006-0310.

Passed 5/0

Commissioner Patridge moved to decline to amend OAR 845-005-0331.

Passed 5/0

Commissioner Patridge moved to decline to adopt OAR 845-005-0329.

Passed 5/0

Commissioner Patridge moved to decline to adopt OAR 845-005-0309.

Passed 5/0

12:00-1:30 LUNCH

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LICENSE MATTERS

License Applications

Farshad Allahdadi, License Services Director presented.

SHAKEN MARTINI LOUNGE 101 W. Historic Columbia River Hwy Troutdale change of ownership application

Applicants Charles Galvin and Trina Antonopoulos and their attorney, Brett Hall appeared before the commissioners. The City of Troutdale missed the deadline to submit a recommendation therefore, according to ORS 471.166, the agency must treat the application as if it received a favorable recommendation. A letter from the Troutdale Police Chief was received three days after the deadline. Staff was aware of the issues raised in the Chief's letter and those issues were investigated during the review of the application and found they did not rise to the level of denying the license. Mr. Hall said the pending violations will be heard by an independent ALJ and asked the commissioners to approve the application. Commissioner Harper asked the applicants if they have a plan to manage both locations between the two of them. Applicants explained their plans. Commissioner Rice stated to the applicants the importance of remembering that a liquor license is a privilege. Commissioner Rice moved to grant the license.

Passed 4/1 Chair Skinner voted no.

Hayden Island Renewals

Mr. Allahdadi summarized for the board the process he would use to present these eleven license renewal applications to them. All of the following renewals received an unfavorable recommendation with request for restrictions if granted from the City of Portland and significant public opposition.

THE ANCHOR BAR #35 11915 N Center Ave Portland

BRADLEY'S BAR & GRILL #40 11995 N Center Ave Portland

CJ'S DELI 12055 N. Center Ave #300 Portland

DEDE'S DELI 12055 N. Center Ave #100 Portland

DOTTY'S #24 11955 N Center Ave Portland

HUDDY'S PLACE 12055 N. Center Ave #200 Portland

JB'S DELI 11975 N. Center Ave #300 Portland

PADDY'S OLD IRISH CAFÉ #28 11945 N Center Ave Portland

CAFÉ DEL TORO #37 11935 N Center Ave Portland - received a no endorsement with request for restrictions from the City of Portland and significant public opposition.

The following individuals signed-up in opposition to the license renewals:

Portland Police Commander, Mike Leloff, appeared before the board in opposition to the renewals. Commander Leloff spoke to the increased crime and the costs to the retailers. In January, the property qualified for chronic nuisance under the City of Portland. The landlord hired armed security to patrol the property. Commander Leloff stated they are finally seeing a slight decrease in crime but it has been under much continued pressure from the Police department. ORSI and the other licensees must take responsibility and make improvements in their business plans. Commander Leloff stated if the board chooses to grant the renewals, they should place strict restrictions and enforceable compliance plans on these licenses.

Sergeant Mark Friedman, Portland Police department, appeared in opposition to the license renewals. Sergeant Friedman described the issues and events he has seen and dealt with over the past 12 months. Commissioner Rice asked what the City of Portland's goal would be (ie total dispersal, keep criminal behavior off the premise and contained in the parking lot or surrounding area). Mr. Friedman said the goal is to create an environment that is not conducive to illegal behavior. When patrons arrive, they should be aware of the security there and that staff exerts control to monitor the business and patrons.

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Officer Dave Jackson, Portland Police department, appeared in opposition to the license renewals. Officer Jackson described the behaviors he witnessed while patrolling the Hayden Island shops and the on-going issues. Commissioner Harper asked about the relationship between the owner of the property and the business owners. Sergeant Friedman stated the property owner is responsible for the parking lot and surrounding area, and the business owners are responsible for actions within their establishments. The two are not always communicating with each other for example, when a patron is 86'd from a premise that is not always communicated to the other owners or parking lot security so the customer can just go into the next business and continue with the behavior.

Ron Schmidt, Chair of HInoon, appeared in opposition to the license renewals. Mr. Schmidt urged the commissioners to enact the cities recommendations and if the licenses are renewed, he asked that restrictions be applied to all the licenses.

Traci Chapman-Roy, citizen, appeared in opposition to the license renewals. Ms. Chapman-Roy described an incident where her daughter was harassed by an intoxicated patron while walking home past the licenses and how she now fears for her children to walk anywhere near "lottery row".

Marty Slapikis, citizen, appeared in opposition to the license renewals. Mr. Slapikis stated the "restaurants" are truly just drinking and gambling establishments. Mr. Slapikis described events at the establishments as nuisances.

Jeff Geisler, citizen, appeared in opposition to the license renewals. Mr. Geisler is a real estate agent; he described the decreasing property values around "lottery row".

Charles Kuffner Jr., citizen, appeared in opposition to the license renewals. Mr. Kuffner described the criminal activity and police reports written at "lottery row" and stated such activities should qualify as History of Serious and Persistent Problems.

William C. Feldman, citizen, and member of "Stop Lottery Row" appeared in opposition to the license renewals. Mr. Feldman gave the commissioners a petition with 2300 signatures.

Lucinda Karlic, President of the Hayden Island Livability Project (HILP), appeared in opposition to the license renewals. Ms. Karlic stated the Hayden Island bars do not contribute to the livability on Hayden Island.

Stefan Karlic, HIMHC HOA and HILP, appeared in opposition to the license renewals. Mr. Karlic described the atmosphere at "lottery row" in the evening as a military zone with armed security, drug sniffing dogs and "sketchy" people making drug deals in the parking lot.

Resident of Hayden Island, no name given, stated his business has lost thousands of dollars because after coming to Hayden Island, his clients refuse to come back.

The following individuals signed-up in favor of the license renewals:

Len Bergstein, President of Northwest Strategy, appeared in support of Oregon Restaurant Services Inc. (ORSI) Mr. Bergstein spoke of his working relationship with Dan Fisher and ORSI and their efforts to build community relations and address regulatory issues relating to the operations in Oregon. Mr. Bergstein stated Mr. Fisher has voluntarily committed to address an entire range of issues. Mr. Bergstein noted Mr. Fisher's business model attracts 70% women over the age of 40. Commissioner Harper asked how many neighborhood meetings Mr. Bergstein has attended. Mr. Bergstein stated he has attended three meetings with Portland Police and others. Commissioner Harper asked Mr. Bergstein if he would be opposed to hiring a DPSST certified employee for each of the businesses. Mr. Bergstein asked to let Will Ramussen, Attorney, address that issue.

Kelley Sheldon, Operations Manager of ORSI (Paddy's Rachel's & Dotty's), appeared in support of the license renewals. Ms. Sheldon said since security has been added, she has seen a positive change. Ms. Sheldon stated if the licenses are not renewed, many people would lose their jobs.

Shawn Gauna, Area Manager of ORSI (Paddy's, Rachel's & Dotty's), appeared in support of the license renewals. Ms. Gauna stated she has worked for several years for the company and has never had an OLCC violation on her record. Commissioner Harper asked the ORSI staff

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members what kind of food they serve at the locations. Ms. Robisneaux described some of the available menu items.

Brandy Chaney, Assistant Manager of ORSI, appeared in support of the license renewals. Ms. Chaney said that she has had no OLCC violations. Ms. Chaney described the improved controls employees have taken to reduce illegal activity.

Sherril Gardner, District Manager for ORSI, appeared in support of the license renewals. Ms. Gardner said she has been an employee for thirteen years. Ms. Gardner described the financial burdens that would be placed on many employees if these businesses were closed down.

Commissioner Patridge asked how many of these types of stores does ORSI have. Ms. Gardner said there are 37. Commissioner Patridge asked if there are more of these types of issues at the Hayden Island locations than the other locations. Ms. Sheldon said that since the enforcement changes have been made, they are about the same across the board. Commissioner Patridge asked if the corporation tracks the incidents. Ms. Sheldon said there are incident log books at the stores and the attorney has been tracking as well. Ms. Sheldon gave the commissioners a statement from Dan Fisher who was unable to attend the meeting. Chair Skinner asked Mr. Allahdadi if he knows why Mr. Fisher was not in attendance. Mr. Allahdadi said he believes his attorney will speak to that.

Charles Hare, Owner of CJ's, Huddy's and Dede's, appeared in support of the license renewals. Mr. Hare said he is part owner of 21 CJ's Eateries around the State of Oregon. Mr. Hare said CJ's employs 130 people/ 20 in Hayden Island. When he signed the lease; he had no idea of the crime in the area. He has attended many neighborhood meetings and worked hard to be cooperative. Mr. Hare described the costs his business has incurred with the added security and stated his commitment to keep the security until Commander Leloff tells him it is no longer needed. He stated over half of his employees are DPSST certified and his manager is an instructor who will continue to certify staff until they are all done. Commissioner Harper asked about the exits and entrances into his businesses and if the three separate businesses were connected with back doors. Mr. Hare said they are not.

Aubrey Spears, Manager of Anchor Bar, Café Del Toro and Bradley's, appeared in support of the license renewals. Ms. Spears said as part of the management team, she has represented the company at the monthly Hayden Island meetings for almost a year. Ms. Spears described the meetings she has attended as negative towards the businesses and said the residents want to group them all together and shut them all down. Ms. Spears said ORSI and its staff members have tried to meet their demands to no avail.

Maggie Pesanti, employee of Anchor Bar, appeared in support of the license renewals. Ms. Pesanti said she has had no OLCC violations and said she has not witness any violence during her day shifts. Commissioner Rice asked what time Anchor Bar closes. Ms. Pesanti said the bar closes at 1:00 am. Commissioner Rice asked if she has ever worked that shift. Ms. Pesanti said she does cocktail in the evening. Commissioner Harper said Anchor Bar has had a few drug related issues and asked Ms. Pesanti if she was aware of them or in the establishment when they occurred. Ms. Pesanti said she had heard about them but they did not happen on her shifts.

Melanie Sanders, employee of Rachel's Kitchen, appeared in support of the license renewals. Ms. Sanders said she has noticed a change in customers in the last six months.

Debra Siepak, employee of ORSI, appeared in support of the license renewals. Ms. Siepak spoke to her and other employees need for their jobs.

Priscilla Andersen, employee of Bradley's, appeared in support of the license renewals. Ms. Andersen said she works the day shift where most of the customers are grave yard workers over the age of 50. Ms. Andersen stated in the last three years since ORSI took over Bradley's, they have installed more security cameras inside and outside and added security personnel.

Rachel Robisneaux, employee of Anchor Bar and Bradley's, appeared in support of the license renewals. Ms. Robisneaux said she has no violations on her OLCC record. Ms. Robisneaux said she has never witnessed any drug deals during her shifts.

Dustin O'Briien, CEO of Pacific Response Security, appeared in support of the license renewals. Mr. O'Briien said his company has provided security services for ORSI, Huddy's

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CJ's, and Dede's for approximately one to two years. Mr. O'Brien said in the beginning the service was limited but it has increased to up to 8-10 staff on the property. Mr. O'Brien described the duties of his officers and the process used when trespassing a patron. Mr. O'Brien said there is currently approximately 86 persons trespassed from the property. Commissioner Patridge asked what type of incidents they are encountering most often. Mr. O'Brien said they are tracking incidents and at this time, the majority of the issues are invalid ID, hole punched ID's, expired ID's or people stealing cigarettes. He stated he has not seen any major drug issues in 4-6 weeks.

Will Ramussen, Attorney representing Oregon Restaurant Service Inc, appeared in support of the license renewals. Mr. Ramussen said ORSI takes this very seriously; they have taken a lot of time and spent a lot of money on this issue. Mr. Ramussen said ORSI has over 40 locations with an excellent compliance record. Mr. Ramussen said he is currently putting together data of incidents that have occurred in Multnomah County over the last four years and comparing that data to the incidents which have occurred at Hayden Island. He distributed a spreadsheet to the commissioners that showed incidents involving the police have not occurred before 5 pm. He detailed actions taken by ORSI to try and work with police, lottery, OLCC and residents to remediate the problems. Mr. Ramussen said they have completed 14 of the 16 items Commander Leloff asked of them. One of the items not done is to add a security guard at each door. Mr. Rasmussen handed the commissioners a spreadsheet of what that would cost the company and restated the company is already spending approximately 40 thousand dollars a month in security costs.

Mr. Allahdadi noted a letter of concern received from Representative Tina Kotek. The City of Portland's denial letters were based on History of Serious and Persistent Problems. Of the twelve premises within the strip mall, only one premise, Island Pizza, could be shown to have a combination of serious and persistent problems sufficient to support the HSPP charge. The agency is pursuing cancellation of the license for Island Pizza. Mr. Allahdadi stated that of the eleven remaining premises, there are eight cases where restrictions could not be supported and three cases where restrictions could be supported.

Mr. Allahdadi stated, staff recommends renewal of the following licenses without restrictions;

CJ'S DELI 12055 N. Center Ave #300 Portland
DEDE'S DELI 12055 N. Center Ave #100 Portland
DOTTY'S #24 11955 N Center Ave Portland
HUDDY'S PLACE 12055 N. Center Ave #200 Portland
JB'S DELI 11975 N. Center Ave #300 Portland
PADDY'S OLD IRISH CAFÉ #28 11945 N Center Ave Portland
CAFÉ DEL TORO #37 11935 N Center Ave Portland
RACHEL'S KITCHEN #36 11919 N Center Ave Portland

Mr. Allahdadi stated, staff recommends renewal of the following licenses with restrictions;

THE ANCHOR BAR #35 11915 N Center Ave Portland
BRADLEY'S BAR & GRILL #40 11995 N Center Ave Portland
THE GALLEY SPORTS PUB 11979 N Center Ave Portland

Chair Skinner asked Mr. Allahdadi how the lottery contract is related to the liquor license. Mr. Allahdadi explained, lottery requires a liquor license as part of their contract so if an establishment loses their liquor license, they also lose their lottery license. Commissioner Patridge asked why staff decided to require security for the whole day rather than after 5:00 pm. Mr. Allahdadi said when they reviewed all the information, there is evidence incidents are happening at all hours.

Commissioner Rice said he is reluctant to treat the licenses in two different packages. He stated some of the three licenses which staff is proposing to place restrictions on are under the same ownership as others we are not proposing restrictions and the same policies and procedures are in place for all of their premises. Commissioner Rice is not convinced there is

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anything unique about how those three businesses are operating that they should be treated different.

Commissioner Rice moved to grant all eleven licenses with the following restrictions: 1.) When the premises are open to the public and between the hours of 2 pm and closing, licensee shall have at least two staff on duty and on the premise. At least one of the staff will be DPSST certified this staff members primary duties will be monitoring inside and outside the premise for illegal activity. Commissioner Rice stated both of the staff could be performing other than security duties as long as two people are on the premise at the same time. 2.) When the premises is open to the public and between the hours of 2 pm and closing, licensee shall ensure that the area adjacent to or outside the premises, including the parking lot are patrolled at least every 15 minutes by at least one DPSST certified staff member to discourage loitering and illegal activity and licensee will promptly report any illegal activity to the police. 3.) These restrictions will sunset on 12/31/2014 and continuation of these restrictions must be submitted to the commissioners for approval after a comprehensive review for appropriateness by licensing staff.

Recessed 4:45 pm

Reconvened 5:00 pm

After conferring with legal counsel, Commissioner Rice revised his last restriction to: licensee will ask the commission to remove or modify the restrictions in December 2014 as stated under the process outlined in OAR 845-005-0355.

Passed 4/1 Commissioner Harper voted no.

Friday April 26, 2013

8:00 a.m. RECONVENE

8:00 A.M. The Commissioners present were Michael Harper, Bob Rice, Pamela Weatherspoon, and Chair Cassandra Skinner. Interim Executive Director Merle Lindsey attended along with members of staff. Commissioner Rob Patridge was not present.

Chair Skinner removed **Process to Grant License with Restrictions from the working lunch and the Executive Session** from the agenda due to Commissioner Patridges absence.

COMPLIANCE

Stipulated Settlement Agreements

Becky Voelkel, Administrative Policy and Process Division presented.

There were sixteen stipulated settlement agreements before the Commissioners for ratification; Slemany, R Mart, Izzy's Pizza Bar Classic Buffet, Abby's Pizza Inn of Woodburn, McCormick & Schmick's Grill, Canton Garden, Magic Inn, Shonna's, Tide's Inn, CJ's Deli, The Twisted Cork, The Grand Café American Bar & Grill, Lupita's, Yen's Chinese Restaurant, Capers (fka Gaetano Ristorante Italiano, Maddy's.

Commissioner Rice stated stipulation number 12; item 3(b) could be up to interpretation. Ms. Voelkel stated there is an understanding between the case presenter and the licensee as to the expectation in 3(b).

For stipulation settlement number 16, Maddy's, Commissioner Rice asked if the expectation of "seats available" for food service means set up and ready for service or just the ability to seat (ie: more chairs and tables in the back which could be brought out if needed). Ms. Voelkel said the tables and seats should be set up ready for service.

Commissioner Rice motioned to ratify the sixteen settlement agreements as listed.

Passed 4/0 Commissioner Patridge not present.

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Service Permit Refusals

Gwenn McNeal, Enforcement & Field Services Division presented.

There were four service permit refusals and one permit revocation before the Commissioners for ratification.

Commissioner Harper moved to ratify the four refusals and one permit revocation.

Passed 4/0 Commissioner Patridge not present.

ADMINISTRATION

Redemption Center Application

Kelly Routt, Administrative Policy & Process Division, gave the history and background of bottle redemption in Oregon. Alissa Shifflett, Redemption Center Director, was present to answer any questions.

Commissioner Rice moved to approve the new redemption center located at 12403 NE Glisan St. Portland, OR 97230.

Passed 4/0 Commissioner Patridge not present.

Public Testimony on Proposed Surcharge Continuation and Proposed Surcharge Increase

Patrick Bernard, Bull Run Distilling Company and President of the Oregon Distillers Guild appeared before the board. Mr. Bernard went on the record on behalf of the Guild opposing both the continuation and the increase of a surcharge. He stated an increase would affect strategic pricing and most small distillers would have to absorb the increase in order to keep within a certain price point. Additionally, Mr. Bernard said the tax rate in Oregon is the second highest in the nation and gave statistics for consumption rates and beer, wine and spirit taxes. Small craft distilleries are paying the same rate as large distillers such as Jack Daniels. Mr. Bernard stated, they are already paying their fair share, increasing the surcharge would be detrimental to the industry.

Chris Brumbles, spoke to the board on behalf of his wife, Traci Brumbels, Rainer Liquor Agent. Mr. Brumbles stated, last year the store increased 71%, but the store costs increased as well which he read to the board. Commissioner Rice clarified for Mr. Brumbles, the 25 cents would realize 2 cents per bottle to the agents. Mr. Brumbles stated he was told the agent's compensation would go from 8.8% to 10.2%. Commissioner Rice clarified the legislature is completely in control of where the additional income from the 25 cents would be allocated. Adam Smith, West Region Vice President for DISCUS, appeared before the board to state that DISCUS would be in support of repealing the temporary surcharge and is opposed to the 25 cent increase. Mr. Smith gave statistics regarding jobs, mark-up and money generated for the State of Oregon through the distilled spirits's industry. Mr. Smith said an increase would be detrimental to the distilled spirits industry.

Denny Stoll, North Salem Liquor agent appeared before the board. Mr. Stoll summarized the history leading up to the surcharge increase and stated he encouraged the board to initiate the increase with the expectation the funds be earmarked for agents compensation by the legislature. Mr. Stoll said as of that morning, he only new of two legislators that were unwilling to earmark the increase for the agents. Commissioner Rice asked Mr. Stoll if he has seen in any of the proposed budgets in Salem where the surcharge would be allocated to agent's compensation. Mr. Stoll responded he had not seen it in writing.

WORKING LUNCH

Staff present: Merle Lindsey, Farshad Allahdadi, Judith Bracanovich, Jesse Sweet, Dan Croy, Tom Erwin, Katie Siefkes and Laura Paul.

Discussion of License Delegation Policy

8:30 am Recessed

11:30 am Reconvened

COMMISSION MEMBERS:

Michael Harper Bob Rice Rob Patridge Pamela Weatherspoon

Chair Cassandra Skinner

Meeting adjourned

Adjourned:

Cassandra Skinner, Chair

Michael E Harper, Sr., Commissioner

Rob Patridge, Commissioner

Bob Rice, Commissioner

Pamela Weatherspoon, Commissioner

Merle Lindsey, Interim Executive Director
and Secretary to the Commissioners

COMMISSION MEMBERS:
Michael Harper Bob Rice Rob Patridge Pamela Weatherspoon Chair Cassandra Skinner