

OREGON LIQUOR CONTROL COMMISSION

MINUTES

October 24, 2013

Thursday October 24, 2013

1:00 p.m. The Commissioners present were Bob Rice, Pamela Weatherspoon and Chairman Rob Patridge. Interim Executive Director, Merle Lindsey, attended along with members of staff.

MINUTES

Commissioner Rice moved to approve the minutes of the September 12, 2013 Commission Meeting and the October 2, 2013 Special Commission Meeting.

Passed 3/0 Commissioner Harper was not in attendance.

PUBLIC FORUM

There were no members of the public to address the Commission.

RETAIL SALES AGENT UPDATE

Steve Brown, ALSO President and North Lincoln City 1091 / Salem Battlecreek 1198 Agent, appeared before the board. Mr. Brown applauded candidate Mr. Marks as the new Executive Director of the OLCC and appreciates Chair Patridges willingness to bring partners together to discuss possible future models of the OLCC through the Retail Innovations group. Chairman Patridge thanked Mr. Brown for his participation and willingness to put ideas forward for discussion.

ADMINISTRATION

Chairman Patridge thanked Interim Executive Director, Merle Lindsey, for the fantastic job he has done to bridge the gap for the past year. Chairman Patridge outlined the extensive search for a new Executive Director over the past year and gave a brief background of Mr. Mark's professional career. Chairman Patridge made a motion to appoint Steve Marks as the new Executive Director and Administrator of the OLCC.

Passed 3/0 Commissioner Harper was not in attendance

Chairman Patridge swore-in Steve Marks as the new Executive Director and Administrator of the Oregon Liquor Control Commission.

Commissioner Rice moved to approve the 2014 Commission meeting schedule.

Passed 3/0 Commissioner Harper was not in attendance

COMPLIANCE

Stipulated Settlement Agreements

Becky Voelkel, Administrative Policy and Process Division presented.

There were nineteen stipulated settlement agreements before the Commissioners for ratification; Stickmen Brewery & Skewery, Jona's Market, 7-Eleven Store #2363-18786E, Bake's Restaurant & Lounge, Dodge City Inn Restaurant and Bar, Panther Creek Cellars, Red Square Bar & Grill, Hall's Chevron, Currinsville Deli, Hale's Restaurant, Noodles & Company, The

COMMISSION MEMBERS:

Chairman, Rob Patridge

Michael Harper

Bob Rice

Pamela Weatherspoon

Spot Sports Bar & Grill, Club 205, Heat, Karma Vineyards, Piccola Cellars, Blue Bird Tavern, Jarra's Ethiopian Restaurant, Going Deep Sushi.

Commissioner Rice moved to ratify the nineteen settlement agreements as listed.

Passed 3/0 Commissioner Harper was not in attendance.

Commissioner Rice questioned the penalty listed in the default section, given to the Dolphin Two. His understanding is the penalty given is generally given if the business has been sold but he does not believe it has been. Ms. Voelkel explained that a letter of reprimand is the standard sanction, by statute, for allow a VIP to consume.

Ratification of Service Permit Refusals

Gwenn McNeal, Enforcement & Field Services Division presented.

There were ten service permit refusals before the Commissioners for ratification.

Commissioner Weatherspoon moved to ratify the service permit refusals as listed.

Passed 3/0 Commissioner Harper was not in attendance.

LICENSE MATTERS

Farshad Allahdadi, License Director, presented.

Roseland Theater, 8 NW 6th Ave, Portland

The investigation found no record of violation of the enforceable compliance plan (ECP) and no basis to add restrictions to the license or deny the renewal for the Roseland Theater. David Leiken, licensee and Richard Hills, attorney for the Oregon Theater Management Inc. appeared before the board. Mr. Hill outlined the efforts they have made to comply with the City of Portland and the OLCC.

Officer David Jackson with the Portland Police Department and Theresa Marchetti, Office of Neighborhood Involvement appeared before the board. Both Officer Jackson and Ms. Marchetti recommended the Commissioners add the restrictions outlined in their report to the license. They noted there have been several incidents including fire code violations for capacity. Commissioner Rice asked what citations have been issued regarding the capacity issues. Officer Jackson said there have been no citations issued. Commissioner Rice noted there are many of the same points in the enforceable compliance plan (ECP) as the suggested restrictions so why is one more important than the other. Officer Jackson stated the restrictions pose a more severe penalty and there are areas not addressed in the enforceable compliance plan (ECP). Ms. Marchetti said there are no violations of the ECP but there are issues with the licensee's business plan and the patrons they are attracting. Mr. Allahdadi noted the violation difference between license restrictions and ECP. A ECP violation results in a category three violation where as a restriction violation could result in losing a liquor license. Chairman Patridge said many staff members and commissioners were just downtown in the entertainment district and none of these issues were brought forward. Ms. Marchetti said the Roseland is on 6th which is not a part of the street closure are that the Commissioners visited. Ms. Marchetti feels the ECP is not addressing the root causes. Commissioner Rice would like to know what the root causes are? Closing by 10 p.m., one drink at a time per person (it is hard to monitor at the Roseland). Licensee, David Leiken stated they have numerous venues a year. They are one of the strictest venues in town and take many precautions on their own to prevent problems, including: under staffing bar staff in order to

COMMISSION MEMBERS:

Chairman, Rob Patridge

Michael Harper

Bob Rice

Pamela Weatherspoon

lessen alcohol intake, metal detectors, search as patrons enter. Mr. Leiken explained, in detail, restrictions they impose upon themselves.

Commissioner Weatherspoon moved to grant the renewal of the license with no restrictions.

Commissioner Rice stated he supports the motion and noted that this license would most likely be up for renewal again in 60 days which would give time to substantiate any capacity issues; he would hope the fire department would issue citations but it is unfair to use this as a restriction if there is no documentation of the issue.

Passed 3/0 Commissioner Harper was not in attendance.

o *Barrel Room, 105 NW Third Ave, Portland*

Since November 10, 2011, licensee has had an Enforceable Compliance Plan (ECP). Based on a recent OLCC investigation, the inspector found no basis to add restrictions and no basis to deny the license. Duke Tufty attorney for Barrel Room appeared before the board. Mr. Tufty stated that the OLCC inspector did a thorough investigation and licensee agrees with his findings. Chair Patridge noted there was positive discussion regarding improvement at this licensee during the tour to the entertainment district.

Commissioner Weatherspoon moved to grant the renewal of the license with no restrictions.

Passed 3/0 Commissioner Harper was not in attendance.

o *Boxer Ramen, 1025 SW Stark St., Portland*

The City of Portland opposes this license due to location and ownership misrepresentation.

They believe the applicant's husband has an interest in the business and due to his arrest record, he should not be licensed. OLCC investigated Mr. Camdone's record and the passage of time since the last conviction leaves no basis to deny.

Katherine Poppe, license applicant appeared before the board. Ms. Poppe stated her husband, Michael Camdone, is not involved in running the business, his expertise is in the design and hers is in running the business and there is no overlap. Ms. Poppe said she has seven liquor licenses and has an almost perfect record with all of them.

David Jackson with the PPD and Theresa Marchetti, Office of Neighborhood Involvement appeared before the board. Officer Jackson stated that on many social media sites, Mr. Camdone is listed as the owner. Officer Jackson stated there are currently warrants out for Mr. Camdone's arrest.

Commissioner Rice stated that even if Mr. Camdone were to apply for the license, there is nothing in his record that would prevent him from qualifying for a license. Officer Jackson stated the biggest concern is they are not disclosing the full interest in a business, which is a false statement to the Commission. Ms. Marchetti said they are not confident that if something else comes up, they would not disclose the information.

Ms. Poppe stated she does hire her husband because he has a great name in the restaurant industry so she does use his name on social media sites because it brings great media coverage.

Commissioner Rice moved to grant the license.

Passed 3/0 Commissioner Harper was not in attendance.

Stipulated Settlement Agreements for New License Applicants

o *Scotty's*

COMMISSION MEMBERS:

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Pamela Weatherspoon

Mr. Allahdadi gave a brief overview of new process in which the applicant agrees to enter into restrictions and gives up their right to a hearing. There were no questions from the board. Commissioner Weatherspoon moved to grant the license.

Passed 3/0 Commissioner Harper was not in attendance.

CONTESTED CASE HEARINGS

Liquid Club & Lounge, OLCC 12-V-078 & OLCC 12-V-078A

A Proposed Order was issued on July 25, 2013. Case Presenter, Becky Voelkel, represented the OLCC at the administrative hearing. Attorney Paul Heatherman appeared by phone and stated that he stood by his exceptions to the Proposed Order. Ms. Voelkel did not file comments but said she stands on the proposed order and the ALJ's response to the licensees exceptions.

Tyler Norman, OLCC-13-SPR-001

Gwenn McNeal presented the case to the board. A Proposed Order was issued on July 26, 2013. Mr. Norman appeared by phone to speak to his exceptions to the proposed order. Mr. Norman outlined his recovery and his employment. Ms. McNeal stated that Mr. Norman is not eligible for a servers permit until Feb. 6, 2019 or until he can show he has had 24 months of sobriety and has completed probation, approximately Feb. 6, 2016.

Chynele Ferrara, OLCC-13-SPR-007

Gwenn McNeal presented the case to the board. A Proposed Order was issued on September 4, 2013. Ms. Ferrara appeared by phone to speak to her exceptions to the proposed order. Ms. Ferrara outlined her recovery. Ms. McNeal stated that Ms. Ferrara is not eligible for a servers permit until November 2, 2014 or until she can show she has had 24 months of sobriety and has completed probation

RECESS IN CHAMBERS DELIBERATION OF CONTESTED CASES

RECONVENE 3:01 p.m.

CONTESTED CASE HEARINGS- Decisions on contested cases

Liquid Club & Lounge

Commissioner Rice moved to adopt the Proposed Order as the final order of the Commission.

Passed 3/0 Commissioner Harper was not in attendance.

Tyler Norman

Commissioner Rice moved to amend the proposed order according to the list which will accompany the minutes and to adopt the amended order as the final order of the Commission.

Passed 3/0 Commissioner Harper was not in attendance.

Chynele Ferrara

Commissioner Rice moved to amend the proposed order according to the list which will accompany the minutes and to adopt the amended order as the final order of the Commission.

Passed 3/0 Commissioner Harper was not in attendance.

RULES

Annabelle Henry, Administrative Policy & Process Division presented.

COMMISSION MEMBERS:

Chairman, Rob Patridge Michael Harper Bob Rice Pamela Weatherspoon

INITIAL ACTION

Outdoor Areas Package (OAR 845-005-0329, 845-005-0331 and 845-006-0309)

The proposed rules package includes two new rules, OAR 845-005-0329 and OAR 845-006-0309, that would establish licensing qualification standards and operating requirements for exclusively outdoor areas (i.e., areas that do not abut a licensed building). It would also amend OAR 845-005-0331, the Commission's current exterior areas rule, to clarify that this rule would apply only to non-exclusive outdoor areas (i.e. areas that do abut a licensed building). Chairman Patridge noted for the record, the commission is not interested in revising rules that deal with outdoor patio areas.

Commissioner Weatherspoon moved to initiate rulemaking to adopt OAR 845-005-0329 and OAR 845-006-0309, to amend OAR 845-005-0331, and to hold a rulemaking hearing at staff's discretion.

Passed 3/0 Commissioner Harper was not in attendance.

FINAL ACTION

OAR 845-006-0345 Prohibited Conduct (self-service)

This rule prohibits, among other things, a licensee or a permittee from serving himself or herself an alcoholic beverage for on-premises consumption. The proposed amendments expand the prohibition against self-service to all patrons.

Commissioner Weatherspoon moved to amend OAR 845-006-0345 effective December 1, 2013.

Passed 3/0 Commissioner Harper was not in attendance.

OAR 845-009-0010 Service Permit Requirements and OAR 845-009-0015 Responsibility for Verifying Identification

OAR 845-009-0010 identifies the persons required to obtain a service permit under ORS 471.360. OAR 845-009-0015 describes the licensee's, or other authorized person's, duty to verify a person's identity and possession of a valid service permit, if one is required under ORS 471.360, or pending indorsed application, if one is allowed under ORS 471.375. The proposed amendments incorporate statutory revisions recently enacted by House Bill 2443 and Senate Bill 795.

Commissioner Weatherspoon moved to amend OAR 845-009-0010 Service Permit Requirements and OAR 845-009-0015 Licensee and Authorized Person's Responsibility for Verifying Identification effective November 1, 2013.

Passed 3/0 Commissioner Harper was not in attendance.

RETAIL SERVICES

Brian Flemming, Retail Services Director, presented.

Distillery Retail Outlet Agent appointment

Tyler Fradet of Cascade Alchemy Distillers is applying for a distillery retail sales agent agreement under ORS 471.230(2) Cascade Alchemy is currently distilling products at: 20585 Brinson, Suite 5, Bend, OR. Cascade Alchemy would like to allow sales of its products at this location. Cascade Alchemy currently has three products listed with the OLCC.

Commissioner Rice moved to appoint Tyler Fradet as the permanent distillery retail sales agent of Cascade Alchemy effective November 1, 2013.

COMMISSION MEMBERS:

Chairman, Rob Patridge

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Passed 3/0 Commissioner Harper was not in attendance.

Store Conversion from exclusive to non-exclusive status

Portland, Cedar Mill / 1107- Randy Guerra appeared before the board to present his business plan to convert from exclusive to non-exclusive. Mr. Guerra pointed out his goals and reviewed his materials. Commissioner Rice asked Mr. Flemming if there have been any conversation regarding how agents will request fortified wines and beers. Mr. Flemming stated there have not been any specific conversations but noted one of the agents today will have this in their business plan. Commissioner Rice believes the board should be considering if they want to allow this globally or on a case by case basis. Mr. Sweet came forward to clarify that any sort of restrictions placed on an agent's off-premise license would fall to the hearings process. Commissioner Rice stated he understands the process but he felt it would be beneficial to applicants and staff to understand the board's stance on fortified wines and high alcohol beers.

RECESS 3:28 p.m.

RECONVENE 3:52 p.m.

Chairman Patridge said the board would make a motion at the end for all of the conversions.

Eugene, South / 1154 – Shayne Jones appeared before the board to present his business plan to convert from exclusive to non-exclusive. Mr. Jones outlined his proposed store changes. Commissioner Rice asked Mr. Jones if he already has the extra square footage and what he anticipates his inventory costs to be. Mr. Jones said he does have the footage and estimates his inventory to cost between 30-40 thousand dollars.

Portland, Downtown / 1164 – Kym Saunders appeared before the board to present her business plan to convert from exclusive to non-exclusive. Ms. Saunders outlined her proposed store changes.

Lake Oswego, Downtown / 1178 – Barry Karimi appeared before the board to present his business plan to convert from exclusive to non-exclusive. Mr. Karimi outlined his proposed store changes. Commissioner Rice asked about the floor plan proposal which shows a wall to be removed but in the picture it does not show a larger space. Mr. Karimi stated the wall removal is a future plan.

Salem, Battlecreek / 1198 – Steve Brown appeared before the board to present his business plan to convert from exclusive to non-exclusive. Mr. Brown said his Lincoln City store was one of the original conversion stores so he has an idea of what works. Mr. Brown brought some examples of growlers which he plans to sell in his Salem location.

Commissioner Rice moved to amend the retail sales agreements from exclusive to non-exclusive for agents 1107, 1154, 1154, 1178, 1198 and to authorize staff to negotiate an addendum to the contract limiting the availability of high alcohol/low cost wines, malt beverages and ciders. Chairman Patridge stated the board wants to start out with a uniform perspective to

COMMISSION MEMBERS:

Chairman, Rob Patridge

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Pamela Weatherspoon

limit the item types contractually. Chairman Patridge thanked the agents for all they are doing to be innovative.

Passed 3/0 Commissioner Harper was not in attendance.

ADJOURNED 4:35 PM

Michael E Harper, Sr., Commissioner

Rob Patridge, Chairman

Bob Rice, Commissioner

Pamela Weatherspoon, Commissioner

Steve Marks, Executive Director
and Secretary to the Commissioners

NOTE: The next Commission Meeting will be in Portland on November 15, 2013

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

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