

OREGON LIQUOR CONTROL COMMISSION

MINUTES

Thursday, October 23, 2014

9:00 a.m. Commissioners present were Michael Harper, Marvin Révoal, Pamela Weatherspoon and Chairman Rob Patridge. Deputy Director, Merle Lindsey, attended along with members of staff.

APPROVE MINUTES

Commissioner Weatherspoon moved to approve the minutes of the September 10, 2014 Commission Meeting.

Passed 4/0

PUBLIC FORUM

No one from the public appeared to speak before the Commission under public forum.

RETAIL SALES AGENT UPDATE

Steve Brown agent at Lincoln City North and Battlecreek Salem appeared before the Commission to request the agency consider adding a packing slip document to the OLAS system. Mr. Brown said this would save agents a tremendous amount of time when reconciling their liquor orders to what was shipped.

Secondly, Mr. Brown wanted to bring attention to the changes happening with credit card terminals in liquor stores. He believes staff are doing what they can and asked the board to get involved with the changes at the state treasury level as, in his opinion, the changes are taking agents backwards in technology.

Chairman Patridge said he appreciates the communication and thanked Mr. Brown for his input. The Chairman however requested that for future meetings, Mr. Brown work with staff to work through the process issues when possible and allow the board to set the broad policy decisions.

Mr. Brown said he understands and did talk with a manager in Financial Services and the Retail Services Director yesterday. The Chairman requested that staff get a longer lead time in order to address issues.

LICENSE

Your Store, 555 SW Oak St., Portland OR 97204

Dan Croy, Licensing Division presented this new Off-Premise license application. The City of Portland provided an unfavorable recommendation citing the area around the premises has a serious and persistent problem of street drinking and requested restrictions if the license is granted. Staff's investigation did find that the premises is in an area with street drinking however the business plan would not contribute to street drinking. Sooman Pai, friend of licensee and licensee, Suk Yoon appeared before the commission. Mr. Pai said the store would be located inside the Bank Tower which would mainly serve the workers inside the building and would not likely see many customers from the street. Commissioner Harper wanted to ensure the licensee was aware of the situation in the area and asked if she had a plan if the situation of street drinking occurred and how she felt about not being able to sell malt liquor?

COMMISSION MEMBERS:

Chairman, Rob Patridge Michael Harper Marvin Révoal Bob Rice Pamela Weatherspoon

Mr. Pai translated for Ms. Yoon and said the buildings security guard is located next to her store location and she was ok with not selling malt liquor as she wants to provide wine. Commissioner Révoal said he does not agree with the Cities recommendation. Mr. Révoal said it is the police's responsibility to handle the activities in the park across the street not Ms. Yoon's. Commissioner Harper wanted to ensure Ms. Yoon understood her obligation to responsibly sell alcohol. Mr. Pai said you cannot see her store unless you come into the building, the store hours of operation will be office hours and closed on weekends so Ms. Yoon does not believe her business will contribute to street drinking. Commissioner Révoal moved to approve the license application with staff recommendations'.
Passed 4/0

Silver Dollar Pizza II, 19 NW 5th Ave., Portland, OR 97209

Dan Croy, Licensing Division presented this Full On-Premise, change of location license application. The City of Portland provided an unfavorable recommendation citing the premises would operate in a problem area and requested restrictions if the license was approved. Staff's investigation did find that the premises is in a problem area. However, the applicant's successful operating history and ability to control the premises will not contribute to problems in the area. Philip Olson, Licensee, appeared before the board. Mr. Olson told the board he believes he can control the business in a responsible way and said he has always worked with the police department when there were any issues at his businesses and will continue to do so. Chairman Patridge asked Mr. Olson if he had met with the City of Portland prior to them issuing their recommendation. Mr. Olson said he did meet with the city and he has a control plan to address any possible problems. Commissioner Harper asked Mr. Olson to explain his control plan and describe his business model. Mr. Olson said his business is mainly a pizza place but there are no minors permitted and his control plan is very similar to the City of Portland's recommended restrictions. Commissioner Révoal stated the City of Portland and the Portland Police Bureau consistently try to offset their responsibilities for control around certain areas on others and he understands the difference between law enforcements responsibilities and that of a business owner. Commissioner Révoal resents the bad light it places on businesses and the added impact forced onto the private business owner.

Commissioner Harper moved to approve the license application with staff recommendations.
Passed 4/0

In order to keep the record straight, Silver Dollar Pizza in the contested case section is a completely different premises and licensee from the one in the licensing section.

CONTESTED CASE HEARINGS

Silver Dollar Pizza, OLCC 13-V-020 & OLCC 13-L-005

A proposed order was issued on July 21, 2014. Kelly Routt, Administrative Policy and Process Division, presented at the administrative hearing and presented staff comments before the commission. Attorney Daryl Garner and licensee, Sam Macbale appeared before the Commission. Mr. Garner spoke to exceptions to the proposed order. For the record, Chairman Patridge stated that Commissioners received an email from an attorney alleging to be Mr. Macbales lawyer and that none of the Commissioners read the email or had any ex parte

COMMISSION MEMBERS:

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communication in regard to this case. All Commissioners confirmed they had not read the email or had any communication with the attorney. Commissioner Harper asked for clarification on the four violations. Chairman Patridge said the board and staff could not supplement the record in any way. Ms. Routt said the ALJ's findings were correct.

Slim's Restaurant & Lounge, OLCC 14-V-006 & OLCC 14-V-041

A proposed order was issued on August 12, 2014. Becky Voelkel, Administrative Policy and Process Division, presented at the administrative hearing and presented staff comments before the commission. Duke Tufty, attorney for licensee Hamad Alnajran and Michie Nakamura appeared before the board to speak to exceptions to the proposed order. Commissioner Harper asked if the licensee had a permit from the City of Portland for the outside area at the time of the incident. Ms. Voelkel said yes, they did have a permit.

RECESS 10:07 am

IN CHAMBERS DELIBERATION OF CONTESTED CASES

RECONVENE 11:01 am

Silver Dollar Pizza

Commissioner Révoal moved to amend the Proposed Order of the Administrative Law Judge pursuant to the highlighted changes made by commission staff and to adopt the amended order as the Final Order of the Commission.

Passed 3/1 Commissioner Harper no

Slim's Restaurant & Lounge

Commissioner Weatherspoon moved to amend the Proposed Order of the Administrative Law Judge pursuant to the highlighted changes made by commission staff and to adopt the amended order as the Final Order of the Commission.

Chairman Patridge said he appreciated Mr. Tufty's arguments but disagrees with the test that he proposed.

Passed 3/1 Commissioner Harper no

Kealey Browne

Commissioner Révoal moved to continue deliberations on this matter until the Nov./Dec. commission meeting.

Passed 4/0

Stephanie A. Green

Commissioner Harper moved to adopt the Proposed Order of the Administrative Law Judge as the Final Order of the Commission and deny her server permit application.

Passed 4/0

Mt. Angel Market & Deli

Commissioner Harper moved to amend the Final Order of the Commission pursuant to the changes made by commission staff and to adopt the amended order as the Amended Final Order of the Commission.

COMMISSION MEMBERS:

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Passed 4/0

RETAIL SERVICES

Brian Flemming, Director of Retail Services, told the Commissioners that Marilyn Holloway pulled her application for the Roseburg East store and Hector Hassen pulled his application for the Portland West Slope liquor store. Additionally, the Medford liquor store was advertised but there were no applicants. The current Medford agent is evaluating the potential to reduce the buyout and re-advertise in early November. Mr. Flemming introduced the applicants who were present at the meeting to the board.

1095 Roseburg East

Mike Troxel appeared before the Commissioners to present his qualifications and business plans for the Roseburg liquor store. Mr. Troxel is the current agent of the Roseburg liquor store #1225. Mr. Troxel said he planned to extend the hours of operation at store 1095 so that the hours of each liquor store would overlap and allow for more access to customers. Mr. Troxel also plans to improve the interior and exterior of the store and signage.

Frank Mesa appeared before the Commissioners to present his qualifications and business plans for the Roseburg liquor store. Mr. Mesa planned to improve the interior and exterior of the store, improve signage, and work with staff to improve customer service and staff appearance. Mr. Mesa told the board there would be benefits to having two different owners in this market place. It would be great for the community and allow for healthy competition.

1216 Portland West Slope

Joseph Smith appeared before the Commissioners to present his qualifications and business plans for the Portland West Slope liquor store. Mr. Smith said he previously applied for the Keizer liquor store and had not given up on his hope to be a liquor agent. Mr. Smith planned to increase the hours of operations and open on Sunday, re-negotiate the lease to a month by month lease and look into relocating the store when a better location became available. Mr. Smith planned to improve the stock room and improve signage.

Chairman Patridge wanted to ensure the applicant was aware of the financials of the store and that he was comfortable with the situation. Mr. Smith said he had seen the books and believed there were opportunities to build the business.

RECESS 11:34 am

EXECUTIVE SESSION PER ORS 192.660(2)(a)

Deliberations on Agent Selection

RECONVENE 11:53 am

Decision on Agent Selection

1095 Roseburg East

Commissioner Weatherspoon moved to appoint Frank Messa as the permanent agent of the Roseburg East liquor store 1095.

Passed 4/0

COMMISSION MEMBERS:

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1216 Portland West Slope

Commissioner Harper moved to appoint Joseph Smith as the permanent agent of the Portland West Slope liquor store 1216.

Passed 4/0

COMPLIANCE

Stipulated Settlement Agreements

Becky Voelkel Administrative Policy and Process Division, presented twenty Stipulated Settlement Agreements to the commissioners for their ratification; Garden Village Restaurant & Lounge, Columbia Tavern, B & S Market, Deli Store, Woodland Heights Market, Quality Market, Native Foods Café, Shari's of Woodburn, Price N Pride, Sasquatch Brewery, Mac's Place, Hebesha Ethiopian Restaurant and Bar, Spyce Gentlemen's Club, East, Gilmore's Meadow, Local Lounge, Magic Inn, Red Flag, Berbati, Madd Moose.

Ms. Voelkel noted two typographical errors: #16 the infraction occurred in 2013 not in 2014 & #17 permittee permitted disorderly activity not unlawful activity. The information in the actual settlement agreements was correct.

Commissioner Révoal moved to ratify the twenty Stipulated Settlement Agreements as proposed by staff.

Passed 4/0

Ratification of Service Permit Refusals

Gwenn McNeal, Public Safety Division, presented fourteen service permit refusals and four revocation to the Commissioners for their ratification.

Commissioner Weatherspoon moved to adopt the eighteen service permit refusals as recommended by staff.

Passed 4/0

Merle Lindsey, Deputy Director, told the Commissioners that Michael O'Connor, Financial Services Director, announced his retirement after 20 years with the commission and a 40 year career in the accounting profession. Mr. O'Connor will be with the agency through January 2015 in order to help the agency through the budget session. Staff would like to honor Michael at the December commission meeting and recognize his service at that time.

ADMINISTRATION

Legislative/Communications and Policy

Ranee Niedermeyer, Government Affairs & Communications Director, presented an update to the board on the plans for the November Legislative Task Force on OLCC and an update on the agencies work on strategic planning. Ms. Niedermeyer said staff is preparing for the fourth legislative task force meeting which is scheduled from 1-4 pm on November 19th. The meeting will focus on revenue stability, system expansion, agency budget requests and should Measure 91 pass, a brief update on implementation. Staff is working with industry representatives to identify potential opportunities for system expansion and continuing to discuss our legislative request to increase shipping capacity and repair the warehouse roof.

COMMISSION MEMBERS:

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There will be one last task force meeting held in December. Staff will let the commissioners know when the date is chosen.

Legislative days are December 8-10, 2014 and the legislative session opens on February 9, 2015.

Concerning strategic planning, Ms. Niedermeyer said staff have held ten meetings with four internal groups. The groups have identified the highest priorities with the most impact in these four areas: creating a culture of accountability, supporting Oregon businesses to sustain community growth, advancing public health and safety through prevention, enhancing communications both internally and externally. The top three to five areas will be vetted through the Executive Committee and Commissioners to help develop the agencies strategic plan.

Commissioner Révoal asked if there was anything agency staff could do to help the representative of hard cider who presented at the Bend meeting so that he can be effective before the legislature. Ms. Niedermeyer said staff has identified some of the legislative and rulemaking issues that were brought up to bring forward to the legislative task force.

Commissioner Feedback on OLCC Business Not on the Agenda

There were no further issues.

ADJOURN 2:04 pm

Michael E Harper, Sr., Commissioner

Rob Patridge, Chairman

Marvin Révoal, Commissioner

Bob Rice, Commissioner

Pamela Weatherspoon, Commissioner

Steve Marks, Executive Director
and Secretary to the Commissioners

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NOTE: The next Commission Meeting will be by phone on November 21, 2014

The meeting location is accessible to persons with disabilities. A request for an interpreter for the hearing impaired or for other accommodations for persons with disabilities should be made at least 48 hours before the meeting to staff at 1-800-452-6522 or Portland 503-872-5006.

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