

CLACKAMAS COUNTY BOARD OF COUNTY COMMISSIONERS
Staff Presentation Worksheet

Presentation Date: 12/7/10 Time: ~~11:45~~^{10:30} am Length: 15 minutes

Presentation Title: Amendment of Chapter 8.01 of the County Code

Department: Board of County Commissioners and County Counsel

Presenters: Commissioner Bob Austin and Scott Ciecko

POLICY QUESTIONS

Should the County provide local information or make recommendations to the Oregon Liquor Control Commission (OLCC) concerning applicants for liquor licenses? If so, should Chapter 8.01 of the County Code be amended to provide more efficient procedures through which such recommendations can be made?

ISSUES & BACKGROUND

ORS 471.166 and the corresponding Oregon Administrative Rules allow the OLCC to consider information and recommendations from local governments as to whether a liquor license should be granted to an applicant. Chapter 8.01 of the County Code provides the process by which the County will provide recommendations to the OLCC regarding an applicant for a liquor license. The key provisions currently in Chapter 8.01 include the following:

- The County Clerk is notified of applications for liquor licenses by the applicant and by the OLCC;
- The Clerk then forwards the names of applicants to the Sheriff's Office and the Environmental Health division of the County;
- The Sheriff's Office and the Environmental Health division will gather information and produce a written report to the Clerk on each of the applicants;
- If the written reports contain no unfavorable information about the applicant, the Clerk shall make a favorable recommendation to the OLCC;
- If the written reports do contain unfavorable information about an applicant, the Clerk must notify the applicant of the information and the applicant may request a public hearing before the Board of County Commissioners (BCC) to contest the information;
- If such a hearing is requested by the applicant, after the hearing the BCC shall determine whether the final recommendation to the OLCC shall be favorable or unfavorable based on a number of criteria set forth in the County Code.

Despite the availability of the above procedures, it appears that the County rarely if ever makes recommendations to the OLCC. This is likely due to the fact that before the County can make an unfavorable recommendation, there is a significant possibility that

a formal hearing before the BCC will be required. The hearing requirement in the County Code, in addition to lacking detail as to how exactly such a hearing would be conducted, creates a substantial obstacle to the County's ability to make an unfavorable recommendation concerning an applicant for a liquor license.

QUESTION PRESENTED FOR CONSIDERATION

1. Should the County provide local information and/or recommendations to the OLCC concerning applicants seeking to obtain or renew liquor licenses?
2. If the County does provide information and/or recommendations to the OLCC, what are the proper departments to do so?
3. Should an applicant about whom the County intends to make an unfavorable recommendation be provided an opportunity for a hearing?

OPTIONS AVAILABLE

1. Amend Chapter 8.01 of the County Code to make the process for the provision of information and/or recommendations to the OLCC more efficient. This could be accomplished by:
 - a. Removing the opportunity for liquor license applicants to request a hearing from the County; and,
 - b. Adding a provision to the code allowing the County to simply provide information to the OLCC rather than requiring an actual recommendation be made.
2. Leave Chapter 8.01 of the County Code as it reads currently, likely resulting in the County continuing to refrain from providing information or recommendations to the OLCC.

RECOMMENDATIONS

In order to increase County involvement in the issuance of liquor licenses and to increase the frequency with which the County provides information or recommendations to the OLCC, it is suggested that the County Code is amended so that applicants for liquor licenses are no longer granted the opportunity for a hearing prior to the County making an unfavorable recommendation. This type of hearing by the County does not appear to be necessary for a number of reasons: 1) the OLCC conducts its own independent investigations regarding all information and recommendations provided by local governments; 2) the OLCC allows applicants whose liquor licenses may be denied or revoked an opportunity for a formal hearing at the state level; and 3) the County is not responsible for taking any final action on a liquor license but rather only provides information to the decision makers.

Furthermore, it may be beneficial for the BCC to clarify in the Code that it is not necessary for the County to make actual recommendations to the OLCC. Instead it could be clarified that the County may simply provide information about an applicant or a location to the OLCC. This option is preferred by the Sheriff's Office and, according to an OLCC representative, will be an acceptable way for the County to participate in a decision on whether to issue or deny an application for a liquor license.

A proposed version of Chapter 8.01, including changes outlined above, is shown in the attached ordinance. If the BCC desires to pursue these changes, it is recommended that the ordinance be adopted on an emergency basis at a single meeting. The reason for the emergency is that it appears the County is not currently participating in the liquor licensing process despite the potential public safety implications of licensing decisions. In order to allow the County to immediately begin providing information and/or making recommendations to the OLCC, an emergency clause in the ordinance is necessary.

SUBMITTED BY:

Scott Ciecko, Assistant County Counsel

Division Director/Head Approval 

Department Director/Head Approval _____

County Administrator Approval _____

For information on this issue or copies of attachments, please contact Anja Mundy at 503-655-8362.