COMMITTEE ON ADMINISTRATION/ INFORMATION SYSTEMS

February 18, 1997 **5:30 PM**

Chairman Pariseau called the meeting to order.

The Clerk called the roll.

Present: Alderman Pariseau, Elise, Sysyn, Shea, Hirschmann

Messrs.: P. Bergeron, Chief Driscoll, M. Normand, T. O'Rourke, State Representative Desrosiers

On motion of Alderman Shea, duly seconded by Alderman Hirschmann, it was voted to enter into non-public session under the provisions of RSA-91:A-3 Paragraph 2(c) to discuss the denial of three licenses to operate taxicabs.

On motion of Alderman Shea, duly seconded by Alderman Elise, it was voted to return to public session.

On motion of Alderman Shea, duly seconded by Alderman Elise, it was voted that Shawn Berkins reapply for a license to operate a taxicab in six (6) months.

Chairman Pariseau addressed item 5 of the agenda:

> Communication from Brendan Gilmartin appealing the decision to deny his request for a dance and entertainment license application.

Mr. Bergeron stated there was an application for a dance license with the understanding that the dance would occur into the early morning hours; that a couple of years ago an ordinance had been passed indicating when dances could be held; that the Police Department would not sign off on the dance application because there was a clear conflict with the City's dance curfews and would also refuse to grant the license under those conditions until such time as it had been addressed by the Committee noting that the Ordinance was fairly specific.

Chairman Pariseau requested Mr. Gilmartin to sit near a microphone so that he could inform the Committee as to what he disliked about the Ordinance.

Mr. Gilmartin stated I am President of Destination 2000, a production company that I started this past year. I specialize in producing positive events ranging from sporting events to concerts. On February 11, 1997, I applied for an entertainment license to hold an all-night non-alcohol dance at the JFK ice rink in Manchester, NH similar to the all night dance party I held this past New Year's Eve at the NH State Armory in Manchester. I was denied my entertainment license because of City Ordinance number 111.70 Curfew at Dances. No public dancing shall be permitted between the hours of 2:00 AM and 2:00 PM on Sunday, 1:00 AM and 12:00 PM on Monday, or 2:00 AM and 12:00 PM Tuesday, Wednesday, Thursday, Friday and Saturday (Ord. passed 1/17/95; Ord. passed 3/7/95) Penalty, see 111.99. I am here to appeal this unjust ordinance. First, I would like to share with you the positive economic effects this type of event has had on the Manchester community and the event I'm talking about is the event I threw this past New Year's Eve. I filled over half of a hotel, the Super 8 Hotel, over 56 rooms from people from outside of town. I filled the NH State Armory and actually turned hundreds of people away ranging from ages 17, 18 to ages 35; I provided employment for ten Manchester Police officers, three Manchester Firemen, two NH armory employees, 9 DJ's (2 of them being from Manchester), a sound and light company from New Hampshire, a light programmer and sound technician from NH, over 20 Manchester residents, and provided economic impact on area gas stations and restaurants throughout the Manchester area. And, this does not include the economic multiplier effect these jobs have on the economy once you pay these people. Just to give you an idea of the type of finances that I generated, I spent over $3,000 just on the Manchester Police Department. Second, which I find more importantly is I provided a positive, clean, very safe, non-alcohol event for many young adults from all over towns from all over New England and a lot from the Manchester area. In Manchester one of my biggest reasons I started this company is what is there to do if you're a young adult in this City and your options are: (a) go to a bar on the east side of town; (b) go to a bar on the west side or town; (c) go to a bar downtown; or (d) you have a few events in Manchester like First Night, but unfortunately once you become a teenager you cease from attending these events with your parents. We were all there when we were younger and there comes a point we just don't tag along with our parents to these events. Is this the type of message we want to give to our younger citizens. I know, I don't. We don't have concerts, we rarely have quality musicians come and play in Manchester and this goes for all type of music from classical to techno music. In fact, Manchester is what you can say is culturally dormant. I would like to change this. I want to provide various types of entertainment and events for all ages for the young and for the old. When was the last time Manchester has shows

like the Knights of Columbus, the shows my grandfather put on at Central High School Theater, I can tell you when, it's been a long time and I'm sure we can all agree that those events were very positive for the community. I would like to stress the fact that my events cannot be compared to those events that were held at the mills this past October that got busted or other parts of the country that you read about or hear about on the TV or in the tabloids at the checkouts at the grocery stores. I work very hard to ensure that my events are very safe and have proper supervision and to ensure this safety I employ ample security, ample Firemen and Police officers. Even *The Union Leader* had nothing negative to say about my event and *the Union Leader* is always critical of everything. In fact, I received twice as much press as much as Manchester's First Night which I think is very positive and on a shoestring budget compared to it. In fact, I received comments from Deputy Chief Robinson of how impressed he was from the type of people that came to my event, they were very courteous, very polite and very respectful of everybody that was there. Not one single individual was arrested and less alcohol (four beers, one airplane nipper) was taken at the entrance door from security that I hired to search everybody when they came in the doors and that amount of alcohol is probably less than one could get if they went to Central High School at lunchtime. Remember what it was like when you were their age and this is very important. Your parents and elders thought you guys were crazy when you listened to the Beatles or danced to dances like the mashed potato or the twist. However, I hear the stories of how my grandparents when they met and they met a lot of good friends at Baboosic Lake or the Carousel or the big band sound when they had those down at Lake Massabesic. I'm sure we can all agree those are very positive and diverse events. Will I be able to share these stories with my children or my grandchildren, I don't know and is this generation which will eventually be sitting where you are today and if we don't trust them now, how will they ever be grown up to become trustworthy. I want to change this aspect of Manchester, I want to first start by changing laws that give the wrong message and the message is that it's okay to go out and get drunk every weekend, but it's not okay to go out and dance all night if you want to. At least, you know these events are safe and in a monitored environment and dancing in a socially diverse crowd similar to the dances that you had when you were younger. I know that President Clinton just recently gave a big speech about he support of this type of events and he was referring to the all night basketball leagues that they are trying to form in New York City and how different are these events that I'm trying to throw than the after prom parties that are thrown here in Manchester every year for those students after their proms to go to a safe environment to dance all night or have entertainment for them. Is it illegal to allow one organization to throw a positive event, yet deny another. If you don't allow these people to dance in positive environments, you'll be the ones responsible for forcing them into environments that are unattended by or monitored by Police and will be unsafe and unfavorable atmospheres resulting

in situations to similar ones that happened down at the mills. Personally, I believe a venue that has proper supervision would be in preference over a venue that has little if any supervision at all. This type of exposure, as well, is good for New Hampshire. This is what we need. We bring in people from socially different backgrounds from all over New England and we show them what New Hampshire has to offer. These people are going to come back and hike in the mountains in the summer or after they attend events like mine, half of them went out skiing, it's good for the economy. If you still disagree with me and feel that I should not be allowed to hold these types of events, monitored events I will give you three more reasons why I should have these events. First, if you do not feel dancing is a fundamental right Ordinance 111.7 does not meet the rational basis test of the Supreme Courts since there is no substantial relationship and the fact between the means and the ends of this ordinance. That is, there is no reason why dancing after 2:00 AM is detrimental to the community. Second, Ordinance 111.7 fails to meet the strict scrutiny test of the Supreme Court since there is no compelling City interest to warrant removing a fundamental right like dancing that is protected under the First Amendment and the Bills of Rights. And, finally, even if the City can come up with a somewhat plausible compelling reason, there would be a least restrictive way to achieve your goals. Ordinance 111.7 is an overbroad ban that restricts more rights than is necessary to achieve whatever the City goals are. Over time things do change and sometimes these changes are not easily accepted, but at one time in the great country's history women did not have the right to vote nor did people have a right to have a freedom of religion and yet, still at other times people were not allowed to consume alcohol or have the right to drink from the same water fountains as other people. Music tastes change, fashion preferences change, and yes even outdated laws of unjust laws do change. From a number of times and for a number of reasons people danced. They danced so their crops would be plentiful or so their huts would be good. They danced to stay physically fit or to celebrate. Are we not told in Psalm 149 "Praise the Lord, sing unto the Lord a new song and let them praise his name in the dance." King David who we read about in Samuel "David danced before the Lord with all his might, leaping and dancing, leaping and dancing before the Lord. Eclesia assures that there is a time and purpose under heaven, a time to laugh, a time to weep, a time to morn, and a time to dance. This is our time to dance, it's our way of celebrating our life. Do not force these children into unsafe environments to express something that has been part of being human since the beginning of time. And, in conclusion and in light of the situation involving ordinance 111.7 and its constitutional ramifications, I hope you will come up with a fair and rational decision based on the merits of the case I presented here and not the hysteria and hype that has been associated with other events in Manchester or around the country. Thank you for your time.

Chairman Pariseau asked Chief Driscoll if he had any comments relative to Mr. Gilmartin's concerns and asked what had brought it about to begin with, what brought on the suspension.

Chief Driscoll replied the Police Department had not suspended it; that Mr. Gilmartin had approached them with an application from Mr. Bergeron's office; that the Police had looked at the license noting he had wanted to have it from perhaps ten o'clock on Saturday night till the next morning; that in looking at the City ordinances noted in Manchester they can't dance past one o'clock in the morning, so their first concern was that it did not meet the City ordinances and as a result the Police Department had called and spoke to Paul Bergeron and Ron Ludwig advising them that they had a concern and did not intend on signing the license; that their second concern was that it would be held at JFK and the volume in the wee hours of the morning were also a concern to the Police Department for those people living on Green Street and all of the streets in the area would perhaps be impacted by it; that they never got to address that issue because he had not met the criteria of the ordinances as they were now written; that if he had come in and wanted to do it on a Friday night, Saturday morning they perhaps would have signed the license but would have also looked at the noise issue.

Mr. Gilmartin stated he would have been denied again because the ordinance stated that on the other nights of the week there was no dancing allowed and even looked into switching nights.

Chief Driscoll stated historically the City had not allowed them to go all night long into the next morning and felt it was an inappropriate place to have that type of activity anyway.

Alderman Shea stated if that particular group was allowed to conduct the activity then that would allow through precedent all other groups to do the same thing in the City, correct.

Chief Driscoll stated as the Chief of Police he was unsure if he could have Deputy Robinson sign a license which violated the City's ordinances; that his hands were tied and that certainly would set a precedent noting if it was done for one group they would have to do it for everybody he thought.

Alderman Sysyn asked what was the difference because it was New Year's Eve and asked did they dance all night.

Chief Driscoll replied he did not know; that they had run a pretty good affair which was held at the State Armory noting he did not know what the hours were, but did not think they had gone all night.

Mr. Gilmartin stated it had gone from 9:00 PM to 6:00 AM.

Chief Driscoll replied he had been unaware of that.

Mr. Gilmartin reiterated it was similar to the after prom parties which he believed lasted till 8:00 AM, as well, that were help up at New Hampshire College this past year.

Alderman Elise stated in that case they had been granted an entertainment license.

Mr. Gilmartin replied yes, by Chief Robinson, but believed he had not been made aware of the ordinance because of its so-called strangeness noting that someone must have brought it to his attention; that nobody seemed to know about it.

Mr. Bergeron stated he could probably address and/or clarify a couple of items; that there had been a mistake made on the New Year's Eve license; that the City Clerk's Office had issued a license it shouldn't have under the Code of Ordinances; that the license application had been signed off by some other City departments which should not have occurred and believed they all had dropped the ball noting as it was the City Clerk's Office who issued the license then he would take the blame for it; that it was not that old an ordinance that Deputy Fielding and he had reworked it back in the fall of '94 and received Aldermanic approval in 1995; that the issue wasn't whether or not the dance could be held but it shouldn't be held after two o'clock in the morning as that was the way the ordinance was written; that he did not believe that the Committee had the authority to grant a license which was prohibited under ordinance, so if he was denied a license for a event which would end at two o'clock then certainly the Committee could perhaps address that issue, but did not think the Committee had the ability to allow a dance to extend beyond two in the morning.

Chairman Pariseau noted his agreement, but suggested that perhaps an effort could be made to change the current ordinance and as a Committee make a recommendation that they follow through with a letter to the full Board for the next meeting and propose a change in time and let people say what they have to say during a public hearing.

Chief Driscoll stated he would like to be heard on that issue noting he could perhaps influence the Committee; that he would be very concerned as the Chief of

Police with that being done; that if it was done they would impact every social club and every bar in Manchester which presently had a dance license; that there were some at one and two o'clock in the morning the Police Department had their hands full with and if alcohol was allowed to be consumed from early in the evening till past one or two o'clock in the morning it would create tremendous problems for the Police Department and the community and did not think that would be a good thing to do at all.

Alderman Hirschmann stated Mr. Gilmartin sounded innocent and honest enough; that he did not realize the ramifications that the Chief was pointing out noting that it would affect a lot of others other than his little corporation.

Mr. Gilmartin interjected he did.

Alderman Hirschmann stated on Sunday mornings the Police Department did not need to be cleaning out bar rooms, social clubs, dance halls, armories, etc. noting he would be opposed to it.

Alderman Shea stated he would also be in opposition; that if New Hampshire College was used by Central High School noted it was in Hooksett and not Manchester and did not know if there were different ordinances for Hooksett or other communities around.

Chief Driscoll stated it would be very inappropriate for the Committee to recommend to the full Board that they change something that would have that great of an impact on the community.

Chairman Pariseau stated he felt that Mr. Gilmartin had a point...what were the kids to do...and if they couldn't conduct things according to the ordinance then maybe it ought to be looked into.

Chief Driscoll stated Manchester would provide every opportunity within the existing City ordinances to provide entertainment opportunities for people within the community, outside of the community, and from the distances that people would come to participate in these RAVE's, but to go beyond what was presently authorized under the ordinances and to bring people from Massachusetts and from communities outside of Manchester to dance all night long in Manchester and leave early in the morning realized there was revenue involved...

Chairman Pariseau interjected he found it ironic about bringing people in from Massachusetts and asked how many people from Massachusetts were currently on the Police Department or outside of the City.

Chief Driscoll replied many.

Chairman Pariseau asked so what was the difference; that it appeared the Chief did not want to do Police work and rather wanted the “gravy” and apologized for saying it, but that was what it appeared to be.

Alderman Elise asked if they realized that the application was for a license for 10:00 PM to 10:00 AM and asked Mr. Gilmartin if he would be willing to hold his activities until the ordinance allowed till 2:00 AM.

Mr. Gilmartin replied unlike when you were younger and how your times were different, times have changed, people change and what he was trying to do was to make these events safe; that if they wanted to dance all night there were many things that the young adults could be doing which were a lot more detrimental than dancing; that his goal was to have a safe event; that at the last event he employed ten officers and they ate pretzels all night noting it was better than any high school dance they had ever worked at in Manchester; that the people were pacifists and did like fighting or guns; that the time of the dance he knew might not coordinate with the City and at that time (2:00 AM) officers were employed to handle other drinking institutions, but his event was non-alcohol which caused a lot of problems; that if he was looking for a permit with alcohol and did sell alcohol at his event, the profits he would make would go to a charity; that the Salty Dog or the Coliseum were not looking to take money that they had made off of selling liquor; that he would have wanted The Shriners come in, have The American Legion come in to try and do something which was good for the community; that the time of it...was a constitutionality of it at that time...the Bible the oldest book in the world talks about dancing.

Chief Pariseau thanked Mr. Gilmartin and reiterated his apology to Chief Driscoll noting it did bother him though.

Chief Driscoll stated they did have their hands full at that time of the night.

Chairman Pariseau suggested the Committee defer a decision until the next meeting.

Alderman Hirschmann asked for what reason.

Chairman Pariseau stated he didn’t have a reason.

Alderman Hirschmann moved to deny the request for a dance and entertainment license application by Mr. Gilmartin. Alderman Shea duly seconded the motion.

Chairman Pariseau addressed item 6 of the agenda:

> Communication from the Chief of Police requesting that the fine schedule for violations of City ordinances be amended.

Alderman Hirschmann asked if all dogs had to comply and what if they didn't leave the property.

Chief Driscoll replied dogs could be left in their owns yards, but could not be allowed to run at-large.

On motion of Alderman Shea, duly seconded by Alderman Hirschmann, it was voted to recommend that the fine schedule for violations of City ordinances be amended; and further recommended that it be referred to the Committee on Bills on Second Reading for ordinance preparation.

Chairman Pariseau addressed item 7 of the agenda:

> Communication from the Chief of Police relative to Alderman Robert's proposal to ban video poker machines within the City of Manchester.

Chairman Pariseau suggested item 7 be tabled until further information had been received from the State Attorney General's Office.

Alderman Hirschmann asked when that information could be expected.

Chairman Pariseau replied they had spoken to the Mayor today who convinced them to forward such information.

Alderman Elise stated Attorney Kelley had submitted a letter to the Committee for its consideration

On motion of Alderman Sysyn, duly seconded by Alderman Hirschmann, it was voted to table item 7 until March 11, 1997 pending further information.

Chairman Pariseau addressed item 8 of the agenda:

Communication from Thomas O'Rourke, Continental Cablevision, advising that Continental Cablevision's merger into US WEST is now complete and reporting that Continental Cablevision was named Cablevision Magazine's "Operator of the Year."

On motion of Alderman Sysyn, duly seconded by Alderman Elise, it was voted to receive and file item 8.

Chairman Pariseau addressed item 9 of the agenda:

Communication from Thomas O'Rourke, Continental Cablevision, submitting copies of several annual notices which have recently been sent to cable subscribers in Manchester.

On motion of Alderman Sysyn, duly seconded by Alderman Elise, it was voted to receive and file item 9.

Chairman Pariseau addressed item 10 of the agenda:

Communication from Walter Smith relative to the recent notice from Continental Cablevision regarding an increase in rates and the addition of the Sports Channel effective January 1, 1997.

On motion of Alderman Sysyn, duly seconded by Alderman Shea, it was voted to forward a letter to Mr. Smith advising him of the basic cable rate option of $6.38 per month.

Chairman Pariseau addressed New Business.

Chairman Pariseau requested State Representative William Desrosiers to make a brief presentation to the Committee relative to HB 668 and 173.

Mr. Desrosiers stated I reside in Manchester, Hillsborough County District 45 and I'm on Regulated Revenues and I've been on that for ten years and we deal with video poker machines and race tracks and the Liquor Commission and I have been kind of a liaison with Mr. Pariseau who resides in the same Ward 9 and I just want to keep you people informed of what has been happening with the State and over the last ten years there has been many pieces of legislation proposed in reference

to legalizing poker machines and casino gambling and there has also been legislation to ban these machines. We have HB 668 which there was a hearing on today, now do you have copies of these, I have five or six copies and may I pass these out. I'm not going to read this, but just give you an idea of what's happening. This first one 668 bill requires a license or a video gambling machine and an assessment of a $2,500 fee for such licenses. The Sweepstakes Commission shall be responsible for the administration and the enforcement of these machines. That was heard today, I wasn't there for the full meeting. For the record, I am opposed to legalizing any type of video poker or casino gambling and the other Bill 173, this here prohibits further establishments on expansion of casino or video gambling in New Hampshire for two years. That is one that is obviously opposed to this and I just want to keep everybody informed because not only as a State Representative, I am a concerned citizen and I guess we haven't got a ruling from the courts yet on whether we can ban them or not and I would hate to see the City fall into any litigation because my personal opinion, I think you had better wait for that ruling before you make any decisions and that is basically all I want to say and if you'd like to ask any questions, feel free to do so.

Alderman Elise stated you are not supporting these bills, you are not encouraging us to support these bills.

Mr. Desrosiers stated I have never personally voted for any expansion of legalized gambling; that is me personally.

Alderman Elise stated you are then advising us to wait for a ruling from the State regarding what we can do.

Mr. Desrosiers replied, absolutely.

Alderman Elise stated if we find out that we can ban them, you would be in support of that.

Mr. Desrosiers replied, I have mixed emotions, probably not because of the ramifications. I have, I think there are other solutions rather than banning them. I feel that some of the...right now, if you are in violation...you are caught with video poker machines it's a misdemeanor and punishable by one year in jail which is probably suspended with a $2,000 fine. I think the way to cure the problem is to make these punishments a lot stiffer. In other words, make it a felony on both the vendor and the player. I think that would be a better way to resolve it, that is my personal opinion.

Alderman Elise stated at this particular time on the municipal level, the state level the legislation that you would like in place is not there yet.

Mr. Desrosiers replied, no it isn't only because of the fact that the deadline for any legislation is passed until next spring and I've only become really aware of the video problems only because of the news media and all of the publicity we have seen in the papers in regards to video poker and poker machines and that is why I haven't made any other efforts.

Alderman Elise stated if the City does find out that they cannot ban them, the next step would be to go to the House and the Legislature to see what could be done to do it.

Mr. Desrosiers replied that would be the next step and I don't know how these are going to play out yet. There was only the hearing today, there will be more discussions about it. I just want to be the liaison between the Manchester Aldermanic Board and the State and that's primarily why I am here, I am concerned.

Alderman Shea stated, Mr. Desrosiers, you said you personally are not in favor of the machines, but by the same token you feel that it is probably not feasible and possibly can't be done because you're explaining the consequences of them being in existence. And, there is no way that you feel that they can be outlawed or banned.

Mr. Desrosiers replied, correct. I don't know that is a ruling from the Supreme Court and if they feel you can ban them, then by all means that is probably what you are going to do. I just think that they are going to go underground with them and I really think the solution is to make the penalties a lot stronger, just like with drugs.

Alderman Shea asked would you be in favor of local control or State control.

Mr. Desrosiers replied, I would be in favor of local control.

Alderman Shea stated you would rather local control as opposed to State control because you would want the City to get the revenue from it, is that correct.

Mr. Desrosiers replied if the City is going to get the revenue, I would rather see the City get the revenue really.

Alderman Shea stated one of the problems with the machines now is that people are making money and they are not following the law because you have to pay income tax and so do I, but the people getting the profits from these machines are not paying any income tax, so they are breaking the law and that is the problem.

Mr. Desrosiers stated you are right, the IRS could go after them. It's a tough one, it really is.

Alderman Hirschmann distributed a proposed ordinance amendment relative to penalties and asked that it be taken into consideration when addressing the video poker issue on March 11th.

TABLED ITEM

> Communication from Alderman Elise relative to her suggestion of making Manchester more "business friendly".
> (Tabled 12/17/96)

This item remained on the table.

There being no further business to come before the Committee, on motion of Alderman Shea, duly seconded by Alderman Sysyn, it was voted to adjourn.

A True Record. Attest.

Clerk of Committee