COMMITTEE ON ADMINISTRATION/INFORMATION SYSTEMS

May 13, 1998 **5:45 PM**

Chairman Pariseau called the meeting to order.

The Clerk called the roll.

Present: Aldermen Pariseau, Rivard, Thibault, Girard, and O'Neil

Messrs.: E. King, Atty. Mueller, D. Robinson, M. Normand, D. Kennedy, Y. Marquis, Asst. Solicitor Arnold, Atty. Mueller, J. Kane, P. Telge

Chairman Pariseau addressed Item 3 of the agenda:

> Communication from Attorney Kennedy relative to a request of Yvette's Crafts for an amusement device license.

The Chairman asked Attorney Kennedy if he would agree to May 18 as a date for the Committee's hearing on his request which would provide adequate time for all parties to make their presentations. Attorney Kennedy agreed to the date.

Alderman Thibault moved to schedule the hearing for May 18. Alderman O'Neil duly seconded the motion. Chairman Pariseau called for a vote. There being none opposed, the motion carried.

Chairman Pariseau addressed item #4 of the agenda:

> Communication from the Assistant City Solicitor submitting MediaOne's response to Form 329 and noting that if the Committee desires to file the complaint with the FCC it must be done prior to June 29, 1998.

Alderman Rivard asked the Chairman if the Committee had ever done this before. He replied, no. The Chairman summarized the Form 329 process. He added that the response the Committee got from MediaOne made reference to Dover and Portsmouth, but it did not mention Manchester and based on that, he'd recommend filing the form with the FCC.

Atty. Mueller stated that he saw that the response was based on information from other cities and that he tried to put in a call to counsel for MediaOne, and he had not received any response but he wasn't sure if they had got back to Attorney Arnold or not.

The Chairman asked Asst. Solicitor Arnold that since MediaOne provided information about Dover and Portsmouth and not Manchester, why doesn't the Committee just proceed with the filing.

Asst. Solicitor Arnold said that was an option. We had asked MediaOne that question and they hadn't responded to him as yet either. His "educated guess" was that the financial information on which they're basing their response is going to be the same, though he couldn't represent that for sure without talking to Media One.

Chairman Pariseau said that the April 7th letter to you says, "Please find enclosed MediaOne's FCC Form 1210 used to calculate the maximum permissible rates charged for the Standard Service Package tiers in Dover." I don't care about Dover.

Asst. Solicitor Arnold said he understood the Chairman's concern.

Alderman O'Neil asked when the letter was sent to MediaOne.

Atty. Mueller said it was actually a phone call. We tried to contact their counsel.

Alderman O'Neil asked if that was John Fouhy who was on the letterhead.

Atty. Mueller said it was.

Alderman O'Neil asked if that would have been three or four weeks ago.

Atty. Mueller said that would probably be about right.

Alderman O'Neil said he thought the Committee needed to make a stand with these folks and get their attention.

Alderman O'Neil moved to file Form 329 with the FCC. Alderman Thibault duly seconded the motion.

Alderman Girard asked if the purpose of filing the form was to say that we do not believe that MediaOne followed FCC regulations in setting their rates. What is the challenge that this form launches?

Asst. Solicitor Arnold responded that the form is asking whether MediaOne has the financial data or basis on which to base their present rates.

Alderman Girard asked if they were required to file with the FCC prior to any change in rates and if they were required to get FCC approval for any rates that they set.

Asst. Solicitor Arnold said he did not think so.

Chairman Pariseau said that's why we have this option of filing a Form 329.

Alderman Girard asked if by going through this process, would MediaOne have to justify its rates to the FCC.

Asst. Solicitor Arnold said, yes, and when you say "justify the rate" it means justifying it in terms of the underlying costs and other costs on which they do business and based those rates on. It's not to see whether the rates are in line with public opinion. It is to see if they are in line with the regulations that are in place on which they based those rates.

Alderman Pariseau said he thinks what happened is that they increased the rates and now they want to justify the rate increase that occurred in January by sending to FCC that letter of March 31st included as item #6 in the agenda.

Alderman Thibault said they increased the rates because they said they gave certain channels to people, but some of those people didn't want those channels. And that's the problem.

Alderman Girard said if people didn't like the channels they could change the services they are getting.

Alderman Thibault said he knows that, but from the beginning we've said that they did not explain to the people what their options were and he didn't think they had come that clear on it yet.

The Chairman called for a vote. There being none opposed, the motion carried.

Chairman Pariseau addressed item #5 on the agenda:

> Communication from Thomas O'Rourke, MediaOne, advising of their recent customer service improvement of a new toll-free customer service telephone number (1-888-MediaOne).

Alderman O'Neil moved to receive and file the communication. Alderman Rivard duly seconded the motion. Chairman Pariseau called for a vote. There being none opposed, the motion carried.

Chairman Pariseau addressed item #6 on the agenda:

> Communication from Margaret Sofio, MediaOne, submitting a copy of its third annual progress report to the FCC regarding investment in rebuilding and upgrading systems under its Social Contract.

On motion of Alderman Rivard, duly seconded by Alderman Thibault, it was voted to receive and file the communication.

Chairman Pariseau addressed item #7 on the agenda:

> Communication from Peter Telge, Stark Mill Brewery, seeking information relative to hosting a Brew Festival in Arms Park on Saturday, August 29, 1998 from 2:00 to 8:00 PM.

Alderman Rivard asked if they had done this before.

Chairman Pariseau recognized Mr. Telge for purposes of answering questions.

Mr. Telge said they had not done it before at Arms Park, but they had done it at their own location on a much smaller scale. This would be a Brewfest for all the breweries in New Hampshire. There are sixteen in the association. We would all be the hosts; he is the guest host because it's in his backyard. He was elected chairperson to try to get this approved. We would like to take up all of Arms Park and have entertainment, classic car show, Harley-Davidson Show, kayak racing, vendors with food, and somewhere in the range of 20 and 30 different breweries with four or five different beers each. So it's a bigger scale, but it is pretty similar to what's been in back of the brew pub.

Chairman Pariseau said he would suggest granting the license subject to approval of the Police Department and other licensing authorities.

Alderman Thibault asked if that would conflict with Riverfest.

Mr. Telge said, no. It's two weeks before.

The Clerk stated that Mr. Telge had already approached the departments about the types of licenses he would need and the requirements he would have to meet, though Deputy Chief Robinson may want to comment on the Police Department's perspective. The Clerk also pointed out that this communication was simultaneously referred to the Traffic Committee which has jurisdiction over Arms Park so they will be making the decision on whether or not to allow this to occur on their grounds. We would probably issue them a general entertainment license, but they will still need to get licensed by the Health Department for food vendors, make sure there are appropriate comfort stations, and take care of all the other procedures that may be required.

Alderman Girard pointed out that they will also need the permission of Parks & Recreation to have alcohol at Arms Park.

Mr. Telge said Parks had already been informed, also.

Alderman Thibault asked if the Fire Department would have anything to do with it.

Chief Kane said that usually, with something of this magnitude, they would.

The Chairman recognized Deputy Police Chief Robinson.

Deputy Robinson said that Mr. Telge had contacted him about a month or two after sending the letter, and that he (Robinson) had discussed it with Chief Driscoll. We do have a lot of concerns about having that many vendors there whose main product is alcohol. As you know, at Riverfest we do allow a beer garden, a very small area, a very controlled area. A lot of the other things he wants to do we certainly have no problem with, but you're going to have 15 or 20 different vendors of beer that are going to want people to taste their brew. I just see a lot of problems out there. You know we've been very reluctant to bring in alcohol into any event. We have opened it up a little bit with Singer Park. We're looking at doing something there with some of the pro soccer games, but this almost looks like it's going to be a similar type of event on the same property as Riverfest. With all these different breweries, we just see a real control problem and we're worried about that.

Alderman O'Neil asked if all the breweries would come under licensing by the state liquor commission.

Deputy Robinson said yes, and they would have a single day license too.

Alderman O'Neil stated that these places are going to have the responsibility and if there's an intoxicated person, they refuse to sell or give away beer or whatever it is they do.

Mr. Telge said he had been attending brewfests around the country. Every state he's been involved with has brew festivals except New Hampshire. New Hampshire hasn't in the past because of liquor commission laws. We've been working with Aiden Moore at the Liquor Commission to adjust these laws to allow us to do a Brew Festival. The NH Craft Brewers Association are looking for a permanent home. Every brewery wanted it in their back yard. Londonderry, the White Mountains, Portsmouth. I, of course, wanted it in Manchester. Because we're centrally located right off the highway, it made a lot more sense in attracting greater numbers of people. We are all licensed establishments. I've personally been in the business for over 20 years and so have most of the other breweries. We will have security and people on hand so that if people are intoxicated they won't be served any more, similar to a bar. We've all been through the riot drill. The liquor commission, who we expect to be there because this will be our first event, will have their input also and will have their concerns. Obviously with underage people, they will not be allowed to drink. They will be carded very carefully with ID books at the license station and will get a wristband so there will be no under age drinking. Underage people will be allowed into the park with their families, but they will not be allowed to drink and security will follow through, as in all the brew festivals we've been to. Denver puts through 50,000 people. Boston does 40,000 over a few days. There's a lot of people trying a lot of beer and there're very few problems at any of these. People are there to try beer, not to get totally inebriated and fall-down drunk. There are some people that do that. Obviously they get shut off and they get taken care responsibly. All of the vendors there are in this business, so we will be looking out not only for ourselves but for each other. If someone comes up to my booth who's drunk, coming from another booth, I will not serve him. I will let everyone else who is in security get involved. We want to work closely with the liquor commission and the Police Department. Our goal is to make this an annual event. Obviously we have the chance to make this an annual event in Manchester at this point in time. If we are unable to do it, it will be held elsewhere. There's no doubt in my mind that Nutfield would have it in Londonderry or Woodstock would have it at Loon. My goal is to make this a very big event, an annual event, that will grow over the next four, five, or ten years. And it will be the NH Craft Brewers Association brew festivals. Throughout the state there will be other little brew festivals like the little one we do behind in my parking lot. Those will continue as minor brew festivals. But this is going to be the one big one in New Hampshire. We want to work with the Police and the Liquor Commission to make it a successful, fun and safe event. We are willing to address all of these concerns.

The Chairman recognized Alderman O'Neil who had a question of Deputy Chief Robinson. Alderman O'Neil asked if the Police would have police officers at the site.

Deputy Robinson responded that the department is certainly not against the brew festival. What they would do is meet with him, address their concerns, and then sign off on the license with those conditions which the Police feel are necessary in order to have a safe day. In the past any time we've allowed a beer garden we've always had an officer at that beer garden. I don't know if they are going to have one central location with all the breweries around it or if they have individuals, which might cause some concern. But until we look it over...crowd control is always a problem, traffic control is always a problem. We're not against this happening. We have concerns. It's the first time. We will have to work with those concerns.

Alderman O'Neil said he had confidence that Mr. Telge could work with the police and other city departments to address their concerns and that would be part of the conditions of licensure.

Alderman O'Neil moved to grant an entertainment license subject to approval of all city entities that might be required. Alderman Rivard duly seconded the motion. Chairman Pariseau called for a vote. Alderman Girard being duly recorded as abstaining, the motion carried.

Chairman Pariseau addressed item #8 on the agenda:

> Communication from The Way Home, Inc., requesting to place a banner across Hanover Street for their annual 5-K Run-Walk scheduled for October 18, 1998.

On motion of Alderman Girard, duly seconded by Alderman Thibault, it was voted to approve the banner placement across Hanover Street.

The Chairman indicated that a motion would be in order to remove items from the table for discussion.

Chairman Pariseau stated as a matter of information that Leon LaFreniere had called him regarding item #9:

> Communication from Alderman Reiniger recommending that Section 150.01 of the Housing Code Ordinance, Chapter 150, of the Code of Ordinances of the City of Manchester be amended by deleting paragraph (A) (2),

and he advised that he was going to come to the Committee meeting but that the Chairman wasn't sure if there would be time. Mr. LaFreniere also stated that Alderman Reiniger favored the way that Leon is presenting this change. So Alderman Pariseau did call Alderman Reiniger and left a message on his answering machine and if he had a problem, to get back to him -- and he hasn't. So, the Chairman would like to get this off the table and receive and file.

On motion of Alderman Thibault, duly seconded by Alderman Rivard, it was voted to take this item off the table.

On motion of Alderman Thibault, duly seconded by Alderman Rivard, it was voted to receive and file this item.

Chairman Pariseau then asked if the Committee members had received a communication from Alderman Girard.

Alderman Girard stated that the communication was sent just to the Chair for his review before he did anything else with it, and on the advice of the Clerk tonight he wasn't prepared to discuss the taxicab ordinance at all because of the time constraints. So it had not been forwarded to anyone else.

The Chairman asked if it could be referred to item #10 and discuss it all at once. The Clerk said, yes, it could be tabled along with item #10.

Alderman O'Neil asked if some portions had been approved.

The Clerk answered yes.

Alderman O'Neil asked if he could bring the Committee up-to-date on where we're at with the ordinance and where we need to be.

> Communication from Deputy City Clerk Bergeron submitting proposed changes to the Taxicab Ordinance.

On motion of Alderman O'Neil, duly seconded by Alderman Girard, it was voted to remove item #10 off the table.

The Clerk explained that the portion the Committee, and later the Board of Mayor and Aldermen, approved was the changes in our drug testing policy. We now have up and running a program whereby the drivers are tested on the spot. The cost of the drug test has been incorporated into their fees. As part of that package, the City Clerk's Office is receiving slightly lower revenues than in past years on the drivers' fees. But now when they call for a drug test, they don't have to reach in their pocket. The City gets billed for it and we pay for the drug testing program. It seems to be working quite well and the mechanics seem to be going smoothly, so we're pleased with that. What has been left on the table are all the other issues which the Aldermen at different times had asked us to address as well as some of the issues that the industry has asked us to look at. They are attached to this agenda, two separate items, under item 10. The first group are changes, which we've identified as "10a," clarifying some of the definitions for criminal convictions, motor vehicle convictions, and taxicab. The key is the taxicab definition. We are striking out the last portion of the definition which says that a corporation could be exempt from the requirements of the provision if they operate solely under terms of written contracts. The reason for that is we had an individual out there who started a taxicab company and said all their passengers were contract people and, therefore, she didn't have to conform to our regulations. She was brought to court and lost. But to avoid having this happen again, we're asking the Committee to strike it entirely. Then there are procedures on suspensions or revocations of licenses. We're asking the Committee to allow us to revoke someone's license immediately and not allow them to continue driving until a hearing has been held. The Solicitor's Office, however, has told us that we need to make sure that we schedule a hearing within 72 hours if need be, at that person's request so we are not denying them the opportunity to make a livelihood. Have I interpreted that correctly, Tom?

Asst. Solicitor Arnold said there are two serious concerns. First, if you revoke a license without a hearing for however short a period of time, that you do it on the grounds that it involves the public health and safety or some immediate concern that can't wait until a hearing. And if you do take a license without a hearing, that you hold a hearing as quickly as possible, because otherwise you're exposed to due process challenges in Superior Court.

The Clerk said his Office felt this change would address a situation that the Committee had recently where an individual supposedly assaulted one of his passengers. Under the terms of the ordinance, we had to let him continue driving until the hearing process. Certainly, the Clerk would not take such action without

consulting with the Police Department and the Solicitor's Office, because we do feel this is a rather serious step. But this is what the language in this portion would allow us to do. The records requirement change arose out of the discussions of the same hearing I just referenced. We're asking to log, also, the time the cab returns to service because there was some question as to how long it took this individual to get from Point A to Point B and the Committee thought that the log change would allow us to address that. Under Prohibited Conduct, there had been some talk about putting a barrier between the front seat of the cab and the back seat. In talking to other communities we learned that sometimes there are problems with heating and cooling systems. If you have a barrier between those seats, the heating and cooling systems are in the front of the car, not in the back. So all we asked here is that the driver not allow someone to sit in the front as long as there is room in the back. Once the back is full, then they can sit up front.

Alderman O'Neil stated that he thought there had been some discussion about some people feeling more comfortable sitting in the front. What if we put some disclaimer like "recommend" that you sit up front, but if somebody chooses to sit up front, they sit in the front.

The Clerk said he thought that was the policy the Committee would want to discuss. We're putting it before the Committee. The Police Department, Lt. Tessier, had asked us to put the barrier up. We saw this as a workable compromise, but the Committee would need to make the decision on where to go with that. The Penalty provision was something the Police Department requested. Basically, if the taxicab's unsafe, they get them off the road. We felt it could be done anyway, but it gives them a little more authority. The second piece, which we've listed as item "10b," was put on the agenda at the request of the taxicab industry asking that fares be increased and they provided some sample language. They're asking that they be allowed to charge for time in addition to mileage during circumstances where the cab is held up because of heavy traffic or congested traffic conditions or stop lights and so on. And that's the second issue before the Committee. Attached to that was some general information telling you how rates are calculated in different part of the country.

Chairman Pariseau asked if the Clerk had given the Police Department the whole package of the recommended changes.

The Clerk responded that they had worked with the Police Department on the drafts, but they didn't have a formal, written response on all of the language.

Chairman Pariseau directed the Clerk to forward copies of the proposed changes to the Police Department.

Alderman Girard asked to speak on his proposals and Chairman Pariseau recognized him for that purpose.

Alderman Girard said that some of the changes he was recommending were intended to deal with the noise problem he was having in his ward whereby taxicabs were sounding their horns frequently and at all hours of the day and night. He asked if Deputy Robinson could speak about this problem.

Chairman Pariseau said the Committee still had to have a discussion on Rockingham Ambulance and that he couldn't go into testimony at this time.

Alderman Girard said he understood, and told the Committee members if they had any questions in the meantime that he would be happy to answer them.

On motion of Alderman Girard, duly seconded by Alderman Thibault, it was voted to place the taxicab issues back on the table.

Chairman Pariseau said that under New Business, Asst. Solicitor Arnold had requested time to discuss the ambulance contract. He recognized Fire Chief Kane to speak on the issue.

Chief Kane said he wanted to bring the Committee up to date on where they were with the ambulance contract. The Ambulance Committee has met with Public Safety and informed them of what was going on. At the initial meeting of this Committee and under the advice of City Counsel, we proceeded with negotiations with Rockingham. They had indicated they would come back with the dollar bid and the attorneys said that because it was a dollar bid, under the Procurement Code the City would not have to go out to bid. Since then we had several instances where people had written letters, some signed and some not signed, in regards to Rockingham, expressing some of their concerns about whether we were going out to bid or not. The other thing that has come to light in regard to the ambulance contract is that the City of Nashua has also gone out for an RFP for their ambulance contract. They had four bidders come back, basically all of the bidders came back with a dollar a year. In light of those two pieces of information, the City staff sat down and had a meeting with he City Solicitor's office, Finance, and someone from the Mayor's Office, and looked at the fact that we had people writing to us telling us that we should look a little bit closer at this issue and that Nashua has gone out and got several bids all the same. We thought that it might be wise to come back and talk to the Committee and maybe going in a little bit different direction and instead of sitting down and negotiating with one vendor, go out with an RFP. Obviously, the vendor will be given the opportunity

to bid on the RFP and any of the other bidders who have already indicated that they would be interested in looking at the RFP and submitting a proposal, they would be given that opportunity also. We don't have any problem with our current contractor. I think in light of what we've seen here, it probably wouldn't hurt the city to submit another RFP.

Alderman Girard asked if the Chief was satisfied with the quality of service the vendor is providing, and if we expect an RFP is going to generate a bunch of $1.00 bids, what do we gain by putting it out to bid.

Chief Kane said that what we gain is that we take the negotiations out to the public. One of the concerns that we have here is that some of the public have expressed concerns about not doing that. So if we sit down with just one vendor and negotiate with just one vendor, I think the City could be held up to criticism that it did not allow due process to others.

Alderman Girard asked if the Chief was more concerned about public perception, that he hadn't addressed any of the other issues that had been raised, and that most of the letters he was referring to were anonymous. That the only letter he was familiar with was signed by a former Chalk employee. If you go out for an RFP, you're not basically changing the service that's being provided. You're not going to be changing the revenue service. You're not going to be changing any of the procedures. So other than public scrutiny, what does the City have to gain?

Chief Kane said it is basically public perception. How is the City going to look if it says, "Forget you vendors. We're going to go with just this one vendor" and not give the other vendors the opportunity to say maybe they're going to do something else.

Alderman Girard asked what it would cost to go through an RFP process.

Chief Kane asked if he meant in dollars and cents. An ad for a couple of days, maybe five staff members will need to review the RFPs, and issue the decision. I would say it probably would take a couple of hours per RFP.

Alderman Girard said it wasn't terribly unusual for a City to extend a bid to a contractor who had done a satisfactory job rather than go out to bid.

Alderman O'Neil asked if there was a possibility that rates could be affected.

Chief Kane said he would anticipate ending up with lower rates. He said he thought Rockingham was going to come back with lower rates that they charge per ride. Nashua, he understands, went through the process and is leaning toward going back with Rockingham. There are a lot of benefits in continuing with the same vendor.

Alderman Girard asked if he could negotiate lower rates.

Chief Kane said yes.

Alderman Thibault said he agreed that public perception is a big thing. There are many people that feel they have been charged unjustly by this ambulance service, and if it is only to clear this up, we're here to represent the people of our areas and to make sure that we try to do the right things for the City. Let's bring it out in the open, let everybody look at it, and if there's no problem, let's stay with them. But if there is a problem, let's look at it.

Alderman Rivard said he agreed. He had several inquiries about the situation where we were freezing people out of the opportunity to bid on the service. I think there would be no doubt that it was a done-deal and there wouldn't be any accusations. So I would support your recommendation.

Chief Kane said he wanted to point out that they weren't looking for any huge changes to the contract. We're going to take basically the same contract. We're going to have to clean up some language and put a couple of things that should have been in there.

Alderman Thibault moved to rescind the Committee's previous action to have the Fire Department negotiate with Rockingham Ambulance for a contract extension and put the contract out on RFP. Alderman Rivard duly seconded the motion. Chairman Pariseau called for a vote. There being none opposed, the motion carried.

There being no further business to come before the Committee, on motion of Alderman O'Neil, duly seconded by Alderman Thibault, it was voted to adjourn.

A True Record. Attest.

Clerk of the Committee