

COMMITTEE ON ADMINISTRATION/INFORMATION SYSTEMS

September 15, 1998

6:00 PM

Chairman Pariseau called the meeting to order.

The Clerk called the roll.

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

Messrs.: Deputy Police Chief Dale Robinson, Assistant City Solicitor
Thomas Arnold, Peter Telge, and Dennis Hauck.

Chairman Pariseau addressed item 3 of the agenda:

Request of Stark Mill Brewery to appeal denial of unusual
entertainment license activities.

Chairman Pariseau asked Deputy Police Chief Dale Robinson to speak on the denial of the entertainment license.

Deputy Robinson stated that an application was made for unusual entertainment license, under City Ordinance Section 17-27. Just so the Board understands, it used to be in order to get an unusual entertainment license you had to go through the State Liquor Commission. That was changed back in 1996, hence our ordinance. When he came and talked to me about this -- well, first let me give you a bit of history. We've had these requests in the past for lingerie shows, we have denied them in the past due to the type of content. We did allow it at the Pyramid Night Club at one point, a similar type of show. This goes back a little ways, and we went over and witnessed what it was, and immediately revoked the permit as, basically, I guess you'd refer to it as being a skin show. Again, On the Rocks on Wilson Street came to us, we ended up in front of this same Committee, looking for a lingerie show at half-time during the Super Bowl, two years in a row we've rejected that. We've had a couple other of the establishments come to us and want to have oil wrestling, jello wrestling, we had some of the same problems with that. Again we ended up in front of this Board, the Administrative Committee, and again we were upheld. He did come, he requested, I showed him a City Ordinance dealing with nudity in places selling alcoholic beverages. That is Section 17-26 of the City Ordinances and I do have copies if you need them. I specifically asked him to read Section 3, the definitions, and it probably would be helpful if I just

passed this out. As you can see, this particular ordinance was passed in December 3rd, 1996, by the Board of Mayor and Aldermen and enacted. This is what we've been using as our guideline for these types of shows. He did read definition "3" and could not make a commitment that we would not be violating this particular ordinance. It is the Police Department's position that if, in fact, you allow this, we will be opening the door for other establishments. Again, we have been challenged in the past and we have tried to keep these types of shows out and away from the liquor-type of establishments. Someone did mention to me that this was going to be a private event, by invitation only, but I still have concerns about that. Again, I'm worried about the precedent that we're setting. I'm worried about if we allow it in a private setting, again, if it violates our City Ordinances, and what do we want our liquor establishments to do that we're going to be opening the door. I would tell you that at least once or twice a year we have these types of requests. Again, so far the Police Department's position has been to deny them. I would tell you that has been mainly because that has been the direction that we have received from the Board of Mayor and Aldermen because everytime we come back in front of this Board with a denial, it's always been upheld. And again, we're using Section 17-26, which was passed by the Board of Mayor and Aldermen, as our guideline for this type of show. There's no question that I'm sure what he would be doing in this particular event would be first-rate. I understand it's a dinner type -- and I'm not speaking for him, but the way it was explained to me was -- it's a dinner-type dance with executives, husband-wife, but we're still afraid of the precedent that we're setting and, again, in reading the definition, they could not tell me that we wouldn't be violating our own City Ordinances. That's basically where we stand.

The Chairman asked if the Committee members had any questions.

Alderman Girard asked if the Stark Mill would be required to hire police officers, off duty or detailed police officers, for this event.

Deputy Robinson responded that any unusual entertainment that we normally have as part of the ordinances and as part of the application process, if we do approve them we do normally have them hire at least one detail officer.

Alderman Girard asked if that detail officer, if the City's Ordinances were being violated, would have the authority or the ability to shut the entertainment down.

Deputy Robinson responded that it becomes a difficult problem. If you're talking this particular event, I'm not sure of how it would go over if the officer said that person's not properly dressed and you're violating the ordinance. I would tell you that most events like this, we would be very careful in trying to close something

like this down. I'm not worried as much about this type of event, if it is as he says -- although we're still against it -- but if you were to walk in to one of our local nightclubs and an event was going on, for the officers to have to go in there and try to stop it and close it down, we could be asking for problems. We would normally cite the individual and then try to make sure that they don't do it again.

Alderman Girard asked what the concern was here. Are you concerned that having this type of entertainment and serving alcohol is going to create a situation where you have public safety issues, drunken disorderly, inappropriate contact? What is the concern here?

Deputy Robinson responded that he would go back to the Ordinance, Section 17-26, Purpose and Intent, which was passed by the Board of Mayor and Aldermen and let it speak for itself. It goes into detail as to these types of shows. Is this what we want in our liquor establishments in the City of Manchester.

Alderman Girard: Thank you.

Alderman O'Neil stated that he wasn't going to put words in his mouth, but this is the impression he got: Isn't this particular show, based on your relationship with Mr. Telge, it's the precedent that we're setting here? Is that correct?

Deputy Robinson said it wasn't quite correct. I think my question to him was -- and he can speak to it, I'm sure -- I had him read under 17-26, I had him read the definitions of "nudity" and specifically asked him if we would be violating the statutes. And he couldn't answer that question. What I was told was that they do this up in Concord, they have similar-type shows, but he couldn't speak as to how flimsy, if you would, the lingerie would be. Now, don't get the impression that I'm a prude because I'm not, there's a proper place for everything, but it's the Police Department's contention that with the direction we've been given by the Board of Mayor and Aldermen, that a liquor establishment isn't a proper place. If we allow him to do it, and again I don't see a member of the City Solicitor's Office here, but if we were to allow them to do it, there's no question in my mind that within a couple days I would have several other liquor establishments here that have tried to get this in the past, that have been denied, that have been in front of this Board, and putting in applications. So if this is the way the City wants to go, and certainly I hope it's not from the Purpose and Intent of the Ordinance, you have to give us that direction. We do not recommend it. I think we've had shows in the City that haven't crossed that line, but once we open the door, we are afraid as to what you're going to have on stage. Just recently, and I know I sent a memo back down here, this is a little bit different than the subject here but it's still very important. We allowed extreme wrestling to come to Manchester at the JFK. That

was unusual entertainment and we signed off on it because we checked and found out that it can't be any worse than what you see on TV. Well, it was by far worse. The language and what was said with kids in there was awful. We opened the door, now we have shut that door again. And again, I don't know exactly what their planning to have for lingerie. I guess if it was something that was used in the winter time and we weren't exposing different parts of the body, maybe that would be OK. But I don't think that's what we have in mind here.

Alderman O'Neil said that it seemed to be the Chief's understanding that a similar type of show has been held in Concord. Did you happen to talk to any of your colleagues in Concord?

Deputy Robinson: No.

Alderman Thibault said he would just like to know if the chief knew if this was going to be an invited group of people or is it open to the whole public.

Deputy Robinson said that they would be best to answer those questions. Up until this evening, alderman, I didn't realize -- and I think it was one of the aldermen who told me -- that he believed this was by invitation only. And I don't believe I understood that to be the case. But even if that is the case, we're still agreeing to something here and you can have a lot of private parties -- and sometimes there are stag parties that are private -- I think again what we're going to license and what we're going to allow, we have to be careful because of the precedent we're setting.

Alderman Thibault said he just wanted to know if it was open to the general public that anyone could walk in at any point.

The Chairman said that Mister Telge and his spokespeople could answer those questions.

Peter Telge said this isn't a private party, but it is pre-purchased tickets sold by the radio station, in advance. It's not going to be a walk-in type of thing. The lingerie show is not done to draw business to the brewery that night, unlike most of these other situations that he did say that they have at half-time of the Super Bowl or jello wrestling, or grease wrestling, or whatever it is. This is an added attraction to a celebrity who's coming into town. He's a very famous comedian on the Imus station named Rob Bartlett. He's going to be hosting a dinner-show. If you're familiar with the station and the show at all, he's a very funny guy and this would be right up his alley.

Alderman Thibault asked, Are you telling me this is going to be a private thing, in a private room.

P. Telge: This is in my banquet room, upstairs, away from the brewery. We have a function room on the third level. And, yes, we'll be up there.

Alderman Pariseau: This will be in the function room, not in the public area?

P. Telge: Not in the public area, no. And they have to have pre-purchased tickets, in advance, which are a little bit costly for most. That's why this crowd that will be coming is mostly executives, businessmen, 40 and upwards in age, wives with them, different type of animal. I understand everything the Chief is telling me here and I expected it all. The City has denied these. I didn't have an answer for him on this definition. I don't think I could answer it right now. The only thing that I question is, it says, "Nudity under this section shall mean the showing of human male or female genitals, pubic area, or buttocks with less than fully opaque covering." That right there, that half a sentence, is my question. The rest I can say will not happen. There will be no genitals showing, there will be no showing of the female breasts with less than fully opaque covering on any part of the nipples, or showing the male genitals. The only question is the buttocks with less than fully opaque covering, going to be covered. I have customers coming into my resident today that have less than fully opaque covering on their buttocks. I think if we walked downstairs we might see some girls...we could go to Hampton Beach right now and most of them have less than opaque covering on the beach. My question at this point, if you ask me on that definition, if I took out that half a sentence, I could say definitely we fall into the parameters where it's not going to be nudity. But the buttocks part? Is it a problem? There are people today who walk down the street with bathing suits on with most of their buttocks exposed. We've all seen thongs at Hampton Beach and even Pawtuckaway State Park.

Deputy Robinson responded that we have dealt with that in the past, and he would agree that at the beach it's acceptable. But what we're talking about is in our liquor establishments in the City of Manchester. We have had requests, and I have a book here and we don't need to get into it, but one of the things that we had allowed at first was a swimsuit contest. And we were under the impression that it would be full swim suits. But as soon as they had their first showing, you had similar to what you would see on the beach, and again wasn't in compliance with the ordinance and we had to stop it. And that's our fear. That we would not be in compliance with the ordinance. It's hard for us to approve something that is illegal.

Chairman Pariseau stated that he thought this is what the Committee has to address. He has no idea of what goes on with lingerie and a steak dinner, especially. Peter, do you have someone here that knows what goes on at one of these and have them make a presentation?

P. Telge: First and foremost, I do, personally, and they will tell, there are some things happening in Concord done at the restaurant called the May King on a weekly basis where the Concord Police Department did approve it, and it has been running for a few months now. That's the type -- is it the same people that are going to be doing it? -- the same people are going to be doing it, and they are well aware of this ordinance and a similar type ordinance in Concord that does not allow for nudity, does not allow for any type of the female body -- the pubic area or the nipples -- being shown. It's done in a tasteful, classy manner like this would be done. This is a steak dinner. They're paying \$50 plus a ticket to get into this. You're not going to have a bunch of kids running around throwing dollar bills at somebody. It's not going to be grease wrestling, and again what I fear -- and I hear the Chief talking here -- we don't want to set a precedent. And what I fear as a member of this community is that we set precedents. And the precedent here is that we close our doors and close our eyes to all things because they fall into a category. Things can be done properly in this city. One event that just happened, I just appealed to you folks for a brewfestival. We had a brewfestival that was very successful down at Arms Park on August 29th. We gave \$5,200 to Easter Seals. There wasn't one problem that happened that day, and I think the Chief can attest to that. I checked with the officers who left that night...

Chairman Pariseau said, I understand what you're saying. But the problem is that the Police only have this ordinance to work with. If they feel what is being proposed is against this ordinance, they have no other choice but to deny the license.

P. Telge: I understand that they have no choice because they are following the precedent of denying everything. That's what he told me. "We deny everything that comes across our Board that has anything like that." This is what he told me, because that's based on the automatic rule of last year. And he's denying everything based on a rule where people wanted to do grease wrestling. And I understand that. And if I came to you and said we want to do grease wrestling, I wouldn't even be here. I wouldn't want to waste your time or my time. This is a totally different animal. This is going to be done in a tasteful, classy manner. It's going to be done by executives...

Alderman Pariseau: Could we have the representative from WJYY?

Alderman O'Neil asked if he could ask just one more question. The Chairman agreed.

Alderman O'Neil asked if it was his intent that his would be a one-time event.

P. Telge said it would be a one-time event.

Ald. O'Neil: A once-a-year type of thing?

P. Telge: Possibly. Possibly once-a-year with the station.

Ald. O'Neil: Can you give us your word you're not going to be in here asking for a weekly...

P. Telge: Well I'd like to see it, but I'm not going to be here. I'm not going to be here doing that, no.

Ald. O'Neil: Then your intent is, if this is successful, it's once-a-year.

P. Telge: We might do it once-a-year with the radio station. But that would be it.

Chairman Pariseau asked what the proposed attendance was.

P. Telge said they were looking for 100 - 150 people. And if you asked me the average age of those people, I would say 45 - 50.

Ald. O'Neil: And you did say \$50 a ticket?

P. Telge: \$49.95 a ticket.

Ald. Thibault asked if it might be possible to have the City Solicitor define this ordinance a little bit better. Maybe there's something in there that I don't understand.

P. Telge: Could I also mention that this was said to me, "It's a private party. You don't even need to get permission." I said, well, I just want to make sure that I'm covering my bases, so I'm going to go across this again. It is private and we're not doing a stag or anything like that which I understand there's concerns.

Chairman Pariseau said it's not private when you're selling tickets.

P. Telge: Well, correct. But it's as close as -- I guess when they say private party... Is it private with the doors closed and there's only so many people invited? No. It is open to the public for pre-advanced ticket sales through the radio station. So it's actually, technically, not even a private party. But once the tickets are sold, they're closed that night. I'm not doing the lingerie show to attract business into the brewery which a lot of those other places mentioned were trying to do. They wanted to do lingerie to attract people. This is not an attraction. This is a sideline for this dinner which goes right up the alley of Rob Bartlett and everything else that they're doing.

Chairman Pariseau asked if this type of activity like the lingerie shows they used to have at Pariseau's on Elm Street around Christmas time when you would invite the men in to view the wares. Is this the same type of thing?

P. Telge said it was the same thing. The only thing is that the lingerie has changed a little in the years.

Ald. Thibault said that this was done many times at girls showers. There's an awful lot of that which happens and I'm sure they don't get permission from the Police Department.

P. Telge: Correct. Most places, as I've said, don't get permission. They just do it.

Ald. Thibault: The next thing I would also like to have done is to ask the Police Department to check with the Concord Police and see if their ordinance is basically like ours, and if they let it go, why did they let it go? And have they had any problems? And at the same time, have the City Solicitor check this thing to see that we don't start a precedent, if you will, of something else than what we want to do.

P. Telge: I'm sure that what he said, all the other places are going to come here if they approve this, looking for their lingerie show that they're going to do at half-time and that they can do on Monday night with grease wrestling to draw people in. But again, this is not that. And I don't want that to be grouped into that category of trying to draw people in by doing something sleazy. Because that's what they're basically trying to do. This is not that. And if it was, I wouldn't have wasted your time or my time. I'm a lot too busy to be here and so are you guys. This is a different animal and I understand the Police concern totally with the ordinance and setting a precedent.

Chairman Pariseau said let's have the fellow from WJYY speak.

Dennis Hauck from WJYY and Northfield, NH, said it wasn't their intent to try to change the way the city did things. The radio station is part of the RadioWorks Group which is based out of Concord. WNH1 which is 93.3 and WRCI which is 107.7. Don Imus is getting old, so I don't want to call him a shock jock anymore. He's not a Howard Stern. It's a very political, very entertaining morning show. It's the top-rated morning show in the country with over 15 million listeners per day. We are central New Hampshire's distributor of Imus. If you listen to the Imus show, you will hear Rob Bartlett. He does most of the comedy bits that you hear on the show. Most of the song parodies are done by Rob Bartlett. It's good timing or bad timing with the Monica case landing, that we now have one of the best political comedians coming to Manchester. It's \$49 a head to come into this. It includes dinner, cigars, it's being sponsored by some of the best companies in New Hampshire, it is being attended by attorneys, it is being attended by CPA's, insurance people. Imus draws a very white collar listener. And at \$49 a head plus whatever else they're going to spend that night, it's going to be a very mature group.

Ald. O'Neil: It's \$49 plus the cost of the meal?

D. Hauck: No, the meal is included in the price.

P. Telge: That does not include liquor.

D. Hauck: Right. It was our intent that we make the night as much fun as we could for everybody. Aside from just the comedy that's going to be available with Rob, to have him sit there and be able to host a lingerie show -- even if the girls are just in bikinis handing out cigars, is going to be absolutely hilarious. And it is strictly for entertainment. By any means we're not making a dime on this show, and actually are losing a little bit of money. It's just entertainment for what is really going to be a fairly affluent crowd.

Chairman Pariseau asked if this was going to be for both male and female.

D. Hauck: For both male and female. Women who listen to Imus have a sense of humor. It's not going to be offensive. The girls that are doing this are from a group called Bikini-Gram which is out of Merrimack. This is their livelihood. This is what they do all over the state. For private parties as well as for a public party. They do this at the May King in Concord. They've been doing it for a long time. As you know, the Police Department in Concord is no different than the Police Department down here. They're going to uphold the law. It hasn't had any problems otherwise they would've shut this down a long time ago. We have had them in our studio. Used them for our morning man on WJYY turned 30, and we brought the girls in. It's very tasteful. Of course there's always that insinuation of what they're there to do. But they keep their tops on. It's not a smut show. It's not intended to be a smut show. It's just intended to be just the icing on the cake for a good night out.

Ald. Girard stated that the Chief was concerned about the precedent this would set if we were to approve this entertainment. The other examples you brought to our attention -- the Pyramid, On the Rocks, wherever else it may have been -- were they generally open to the public? There was general advertising, people could come in through the door, it was an uncontrolled situation, there weren't pre-sold sales? Are we taking a look, really, at two different situations: one where you could walk into the Pyramid Nightclub and get an eyeful and they use it as an attraction to draw people in there, and this one where you have to have a ticket to get in?

D. Robinson: I don't really believe that to be the case. When we were dealing with On the Rocks, they were trying to pre-sell a room that was away from the regular lounge. It was actually a gentleman using their liquor license that had come in to put on the Super Bowl and have this as a half-time show. And maybe the City Solicitor does have to answer the question. I still haven't heard that we're not violating the ordinance. You say we're the same as Concord. We're not the same as every community. Every community, by federal law, can set their own standards. The Board of Mayor and Aldermen by the adoption of 17-26, set the community standard which the Police Department has been backing. Again, we ask about the definition. Are we going to be violating the law? I still haven't heard yet that we're not going to be. And again, I'm not trying to be a prude nor is the Police Department trying to be a prude, but certainly it's here. And I guess the biggest problem I have with this is that it's not a private party. They're pre-selling tickets. I think Mr. Telge is 100% correct. If we approve this this evening, I can assure you that we're going to come with more of these unusual entertainment requests for similar type events. As to whether it's 41 or 45 year old executives that have enough money to spend \$49 at a pre-ticket event or do they have a right

to walk in on Second Street or Wilson Street or other areas of the city and have these types of shows? I think that's what the question is. What do we want in the City of Manchester?

Ald. Girard: From what Mr. Telge has said, the only part of the ordinance he wasn't sure he could comply with was the part about the buttocks. Perhaps the ordinance is a bit too severe in that case -- and I agree it is an ordinance -- but if that is the only area that Mr. Telge is not certain he can comply with...

P. Telge: The rest I can say No to, completely. The buttocks part, I can't say No walking down the street today.

D. Robinson: I've certainly seen lingerie, as I'm sure most of you have, and in the proper setting I have absolutely no problem with it.

Ald. Girard: What is improper about this setting, Chief?

D. Robinson: Again, some of this lingerie's going to be see-through. I'm assuming it's going to be. And it's going to reveal a lot more than you're being led to believe here. Maybe not. I haven't seen it. I was asked by Alderman Thibault to check with Concord, and we'll do that.

D. Hauck: In order to keep within your regulations, the girls have to wear pasties over their nipples. I guess the only question I have, and I'm not a resident of Manchester so maybe this isn't my question to bring up, but if I want to bring my 12-year-old to the beach, he can see these ladies running around in thongs but a bunch of 40-year-olds in a room aren't allowed to see this.

D. Robinson: The difference here is that it's a liquor establishment and it's what we're going to allow in our liquor establishments in the City of Manchester. And what people have tried to do in liquor establishments in the City of Manchester. That's our concern. If you go to Hampton Beach, or you don't go to Hampton Beach, that's a choice you make with your family and, quite frankly, what you see at the beach is more acceptable than what you might see walking downtown or in a liquor establishment. I just go with what the Purpose and Intent of the ordinance is. It's certainly within the right of the Board of Mayor and Aldermen to change this. But this is what I have to go with right now, and that's the main reason we've denied it at this point.

Ald. Girard: One more question. My recollection is a little foggy. What were the circumstances or the series of events that led to the drafting and adoption of this ordinance?

D. Robinson: Basically, this was controlled by the Liquor Commission. No one had to get permission from the Board of Mayor and Aldermen. It wasn't controlled at the local level. There were many problems with that. They certainly had to come by the Police Department. The Board voted unanimously to not allow this type of entertainment and in which case, that was the position the Police Department took. When the law changed to make it a local ordinance, then that's when these two ordinances came about. Every community has a right to set its own standards. This is the standard that this community set.

Ald. Girard: Wasn't it also due to difficulties that the City was having with places like the Salty Dog, the Industry Nightclub, and some other...

D. Robinson: Absolutely. We were having hardbody contests, toga contests, we were having everything. It was wide open.

Ald. Girard: Right. So I guess my question is, really, was the ordinance designed to prevent general public mayhem or was it designed to prohibit everything including activities like this.

D. Robinson: I couldn't speak to the intent of the Board of Mayor and Aldermen.

Ald. Girard: I understand that. But if we were to think of events that this ordinance was designed to prevent, it would be those public types of shows that caused the city the problems and not necessarily something like this. Would that be a fair statement?

D. Robinson: I don't think that's an unfair statement. The two fears are: 1) the violation of the ordinance, and 2) setting the precedent. I know how to carve it out now. But if you allow this, there's going to be some difficulty on the Police Department's part that when On the Rocks comes down and wants to hold a lingerie show and says "We're going to do it just like they did it. Why can they do it and we can't?" I guess I can't really answer those questions and that's why I have a fear of a precedent being set here.

Ald. Girard: And I understand it. What I'm trying to get a handle on here is whether or not...well, let me ask the gentleman from WJYY. Is it unusual for Mr. Bartlett to be accompanied by this show? This is part of...

D. Hauck: Yes. He's done everything from men-behaving-badly nights to, you know. No, it's not unusual. I need a definition, if I could. In your definition it

says “fully opaque clothing.” Give me a definition on that. What are you referring to?

Ald. Girard: “Opaque” means you can’t see through.

D. Hauck: OK. So if I had the girls wear flesh-colored nylons, it would take care of all the problems? That can be done in a heartbeat.

P. Telge: There’s so many people that say there are ways around this without getting permission. And I wanted to go the right way.

Ald. Thibault: I’ll have to go back to what I said before. Let’s get a definition from the City Solicitor as to what exactly this ordinance means. And I think we could clear it up right there.

P. Telge: The only problem is we don’t have the time. It’s this Friday.

Ald. Girard: Mr. Chairman, the gentleman from WJYY has made a suggestion here. My understanding of the term “opaque” means you can’t see through. He has just offered to have the girls dress in flesh-colored nylons -- which can’t be seen through?

D. Hauck: When the Liquor Commission controlled this, that was part of their ordinance, that the girls had to wear pasties and they had to wear flesh-colored nylons. I’m going to even stick my neck out here and tell you that that’s standard operating procedure for this group.

P. Telge: We wouldn’t even have had to be here if I had said no to that question. Which it basically is.

Ald. O’Neil: I would feel comfortable approving this, I think, one-time only. I don’t want it to become the norm, and as far as I’m concerned, the Deputy can speak for me that I’m approving this one-time. Any businesses that come in, he can tell them, “I don’t think the Aldermen are going to do anything else.”

Ald. Girard noted that the City Solicitor had arrived and asked if he could look at Section 17-26 (3). Is the word “opaque” meant to mean that we cannot see through it?

T. Arnold: I just want to make sure that the word “opaque” isn’t defined in the ordinance itself, but generally “opaque” means you cannot transmit light through it which means you can’t see through it.

Ald. Girard: I think the conditions that Alderman O'Neil was asking me about were that the models wear flesh-colored nylons and that, basically, nothing can be seen even if something is see-through. Would that be fair?

Alderman O'Neil moved to grant the unusual entertainment license, one time only, provided the models wear appropriate clothing within the definition of the ordinance. Motion duly seconded by Alderman Thibault. Alderman Girard abstained. Motion carried.

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

A True Record. Attest.

City Clerk