

## COMMITTEE ON ADMINISTRATION/INFORMATION SYSTEMS

**February 15, 2000**

**5:30 PM**

Chairman Gatsas called the meeting to order.

The Clerk called the roll.

**Present:** Aldermen Gatsas, Thibault, Hirschmann, O'Neil

**Absent:** Alderman Pariseau

**Messrs:** Atty. Epstein, Chief Driscoll, Deputy Chief Robinson, Atty. Milner, Asst. Solicitor Arnold, K. Clougherty

Chairman Gatsas addressed Item 4 of the meeting:

Update by Attorney Peter Epstein regarding the status of the cable franchise renewal process.

Chairman Gatsas stated with us this evening we have Attorney Peter Epstein with us who represents us in the cable negotiations, which we are in the process of starting on a fast track so that we can get this done. We met awhile ago and I thought it would be wise for him to give us an oversight of what he sees and what he hears. Also, we need to make some decisions and have a couple of extra Committee meetings in the next couple of weeks so that we can come to some agreement on where we are going and how we are going to get there.

Atty. Epstein stated I think we did handout a couple of documents that the Committee can look at at its leisure. What I would say and the important thing for the Committee to understand is that your current franchise, the current renewal franchise, the 10-year franchise, expires on July 8 of this year and if you look at the schematic that Mr. Arnold handed out, the sub-Committee is now working on the ascertainment process and that is in your second box. The cable TV process in short consists of the operator requesting renewal, which is something that MediaOne did here in Manchester back in 1997. That is the renewal letter. The City is coming to an end on its ascertainment. That ascertainment included four public hearings that were conducted by your Committee back in 1998. The City

did some ascertainment of its municipal departments late last year and I believe Dr. Sullivan has given some of you some literature dated December 1, 1999 from Manchester Community TV. Now under the process, again, the next step for the City is to communicate those needs and interests to MediaOne and in essence that is done in the form of a request for proposal. That is in the third box. After the request for proposal goes to MediaOne as you incumbent, MediaOne would give the City its response in the form of a proposal. The City would then sit down and negotiate with MediaOne and either come to an agreement, which would be embodied in a renewal franchise, or you would have something called a preliminary denial. The Committee right now is working on developing its wish list for want of a better description and that would include the types of things that the City believes would be appropriate to ask MediaOne for a renewal. That would include whether the City wants MediaOne to rebuild the system. You may want to have a senior discount. You may want to have increased funding for your local cable community television network. It is all of those things. The amount of time you would give to MediaOne for a renewal franchise would be communicated. As I understand it, the Committee is working on that list and will be getting that list back to this Committee in the near future for you to look over and ask any questions that you may have before the Committee or its negotiating sub-Committee sits down with MediaOne. Not to confuse this, but the schematic before you is pursuant to formal procedures of Federal law. At any time, the City can sit down with MediaOne in the so-called informal mode. I think what the Committee is thinking is that at this point to prepare those issues that have been identified and sit down with MediaOne to see if an agreement can be reached in the informal mode. In the event that it can't, then you understand that we simply have to continue what we are doing now by preparing a formal request for proposal and submitting that to MediaOne. Now I think that the informal discussions would hopefully take place in March. I think the Chairman had mentioned meeting in the near future and having that list of requests for the Committee for you to look over, mark up and ask any questions you want before we did anything. Again, it is a negotiation. It is with MediaOne and it will be with MediaOne until such time that the franchise is transferred to AT&T. The City did approve the transfer, but as you know, AT&T needs to get other approvals, including an approval from the FCC and that is still in the works. Your operator here is still MediaOne. It is not AT&T. That is really the process in a nutshell. I have done a quick review, but I understand that you have other things on your agenda.

Chairman Gatsas stated any Committee members here or any Aldermen, if you have anything that you want to appear on that wish list or Santa Claus's list, I would suggest that you either contact Peter directly or Asst. Solicitor Arnold so that they can get it on the list and we can get something together. What we are attempting to do is get five or six people to put a list together so that it looks like

there are different minds working on it. Somebody may come up with a senior discount or some different things like that so I would suggest that if you have any ideas you should call them in. Does anyone have any questions at this point?

Alderman Thibault stated so what you are saying is that if there is any particular thing that we feel should be in that wish list, we should contact Tom Arnold or Mr. Epstein.

Chairman Gatsas replied correct and we are going to try and get a couple of meetings scheduled so that we can get this process moving because we are under some time constraints now.

Alderman O'Neil asked will they give us a draft ahead of time.

Chairman Gatsas answered they are going to try to get us a draft within the next two weeks so that we can set-up a meeting shortly thereafter.

Atty. Epstein stated I would say that anything that the Aldermen feel would be appropriate to ask MediaOne as a cable related matter, I would put it down and send something to Tom or to me. If we think that according to applicable law or whatever that maybe this is not something we can put in, then we can get back to you and explain why. We want to make sure that the full Committee has the opportunity for input and as your outside counsel, I will just say look I think that is fine or for X, Y and Z reasons I am not sure that we should do this.

Chairman Gatsas addressed Item 7 of the agenda:

Communication from Attorney Glenn Milner requesting a hearing as to the Police Department's request that a business license issued to Julia Entertainment Corp. d/b/a Pyramid Entertainment Complex be revoked.

Atty. Milner stated I will proceed along any lines that the Committee would like. I did, in fact, request a hearing. It was my understanding and again whatever the Chair would like to do, but it was my understanding that the Police Department was going to review the pending complaint that brought us here tonight and that I would have a chance after that to address not only the complaint, but there are some other legal issues that I would like to bring up. I think that is probably a more orderly fashion.

Chief Driscoll stated in a letter dated January 18, 2000 to Matt Normand, the Licensing Inspector, the Manchester Police Department and I as the Chief have requested that this Committee revoke the license for the Julia Entertainment Corporation. This is not a recommendation that is made lightly. We have

significant information to present to you this evening. We believe that after you hear this information that you will conclude that that establishment cannot continue to do business here in the City of Manchester, that their license must be revoked in order to preserve the safety of the community, the people attending there as well as my police officers. We would like to go forward and make a presentation with your permission.

Deputy Chief Robinson stated I did send a packet, which I am sure you all have and I would like to go through that packet now and make some discussions. There is a lot of information in that packet. It is not my intention to read every word to you or to go over everything. That is why we sent it out early. Exhibit A&B of this packet, I would like to point out at this time, are given to you only for a historical perspective of what this City has been putting up with at that location. The present owners were not the owners at the time that Exhibit A&B were made out, but it was to give a foundation so you know where we have been and where we believe we are going so I am going to skip right over those. In mid-May of 1998, we were made aware by the Liquor Commission that some new owners had come forward and were interested in buying that particular club. In mid-May, the Chief and myself met with Erica DeLuco, Denise Hershey, and John DeVito. At that time, we went over Exhibit A&B with them. We went over all of the concerns that we had at that location over the years and made it known that we were concerned about the alcohol consumption there, we were concerned about the 18 to just under 21 year olds going in there and mixing with the 21 year olds, which again is legal by law but there certainly was some concern on our part and we went over a variety of different issues that had happened. We made it known to them our concerns. Because of that meeting that we had, after that meeting I met with representatives from the City Clerk's Office and I met with representatives from the City Solicitor's Office. After getting their input, I put together what you see as Exhibit C. I would like to, for the record, put Exhibit C in. It says:

The Manchester Police Department is signing off on a business license application for the Pyramid Nightclub situated at 865 Second Street. As a condition of the license, the owner/proprietor will be notified of the following conditions:

- 1) If their business in any way becomes a public nuisance, they will be required to hire off-duty personnel as outlined in Ordinance 111.67.
- 2) It shall be the obligation of the licensee to clean up all litter resulting from club operations. The clean up shall occur within 12 hours after the end of each business day and shall extend for a one-block radius around the club.

- 3) It shall be the obligation of the licensee to prevent loitering, indecent acts, and the creation of public nuisances or disturbances of the peace by any patrons of the club on the club premise, or in the immediate vicinity thereof.
- 4) It shall be the obligation of the licensee to prevent the operation of the club from becoming the proximate cause of a significant increase in criminal activity on the premise of the club or in the immediate vicinity thereof.
- 5) It shall be the obligation of the licensee to provide adequate parking for the patrons of the club.
- 6) The club's failure to meet any of these obligations may result in the suspension or revocation of its license.

If you go to Exhibit D, you will see that this is the license that was issued and attached to that are the conditions that the Police Department requested. What I will tell you about those conditions is that on Condition 1, we found that the amount of officers that they hired didn't make a significant increase. It just stopped us from pulling officers off the street over there. At one point, right after an incident in November of 1998, we had eight officers working there at night and still found ourselves having problems. Condition 2, we found no problem with that. They have been very good at cleaning up the litter in the area and we are not here because of that this evening. On Condition 3 and 4, that is the reason that we are here. We do believe that they failed to prevent this from happening by their operation of the club. On Condition 5, adequate parking, for the most part we have no problems with that. We did clean up the neighborhood by putting no parking signs in and as part of the detail, they were to hire an officer with a cruiser who actually patrolled the neighborhoods in the area and tagged illegally parked cars. Obviously, Condition 6 is why we are here because we feel that they haven't adequately followed these guidelines and we hope to be able to show that to you momentarily. If you go to the next Exhibit, which is E, we are going to start a little bit in reverse order. I would like you to go to the next to the last page. I am not planning on reading all of these items, but what I would like to point out is why we had this meeting on November 18. On November 13, 1998 at 12:50 AM, detailed officers responded to the parking lot due to a stabbing that had just occurred. The subject required 30+ stitches to take care of the stab wound. This call also necessitated response from several Manchester Police Department units. At 1:25 AM, several large fights on the same evening broke out in the parking lot. Just prior to this, there was a major stabbing. All units of the Manchester Police Department and some detail units from other clubs had to respond. Due to the seriousness of the call and the loud crowd of drunk and disorderly people, requests were made to the New Hampshire State Police and the Bedford Police for additional units. For well over one hour, there were no other units available in the City of Manchester to respond to any other calls. Officers had all they could do to

hold their ground at that particular location. That particular incident led us to ask for a meeting with the club owners, which was held on November 18, 1998. At that meeting, we had representatives from the City Solicitor's Office, City Clerk's Office and Police Department. Also, we had representatives from the Pyramid Nightclub. Again, I won't go over all of this, but I brought up and the Chief brought up those areas of concern again that we had already given to them in the past: excessive consumption of alcoholic beverages. We were still concerned, although it was legal, the ages of 18-20 year olds coming into the club. We were concerned about the format of the entertainment at the club. We were concerned about the behavior of the patrons and we were concerned about the number of people that were being allowed into the club, and particularly to different rooms within the club. The Chief went on to state to them and tell them that he was seriously considering going to the State Liquor Commission to pull their license. It also says in the meeting that Paul Bergeron, who was then of the City Clerk's Office, made it known that any future incidences at their location would result in the City Clerk's Office going after their entertainment license. Again, I won't read every word, but it is all in there as to what our perspective was that happened at that particular meeting. The day after this meeting, because of the seriousness and the nature of what transpired, Chief Driscoll put together the following letter and again I would like to read it into the record. It is dated November 19 and it is addressed to Ms. Erica DeLuco with the Pyramid Nightclub.

Dear Ms. DeLuco:

In the early morning hours of November 13, 1998, many officers of the Manchester Police Department, Bedford Police Department and the NH State Police were put in a situation of extreme danger by actions of over 100 of the patrons of your establishment. In addition to that, and in a much broader sense, the residents of the City of Manchester were put in jeopardy, as there was no police protection available to them as a result of the activities of this group of individuals.

The Police Department holds your establishment totally responsible for the actions of that evening. The crowd was highly volatile, alcohol fueled and resisted any attempt whatsoever by police officers to bring it in order, creating a near riotous situation. While it is true that you have assumed ownership of the club only in fairly recent times, it is clear that there is a behavior pattern of disorderly and undesirable conduct at your establishment, which cannot be allowed to continue. Your policy of allowing under age persons into your business is inflammatory to this conduct and has led to underage drinking arrests. I refuse to allow a police officer to be hurt or a citizen of the City of Manchester to go unprotected

simply in order that you can provide a certain type of entertainment for profit.

I wish to make it clear at this point that I will do everything in my power to assure that nothing of this sort ever happens again. To begin with, there is going to be instituted by my Police Department in concert with the State Liquor Enforcement Officers, a strict policy of zero tolerance for any infractions whatsoever. Officers will be instructed to be on the look out for under age drinking, intoxicated patrons, or any other transgressions that may come to their attention. They will be directed that they have no discretion in dealing with these matters and are to take appropriate action against these patrons and document that action

In addition, I will call your attention to the conditions under which your business license is issued. There are six (6) specific conditions which, if any are violated, could lead to the revocation of your business license. Please reference particularly Part 3, which says that the licensee shall make every reasonable effort to prevent loitering, indecent acts and the creation of public nuisances or disturbances of the peace by any patrons of the club, on the premises of the establishment or immediate vicinity thereof. It is our belief that you have already failed to meet this particular requirement, as well as Section 4, which calls upon you to make every reasonable effort to prevent the establishment from becoming the proximate cause of a significant increase in criminal activity. The actions of the morning of November 13 would certainly lead one to believe that there were significant disturbances of the peace and criminal activity by patrons of your club.

To conclude, as I stated above, it is the firm intention of the Manchester Police Department that our officers and the citizens of Manchester no longer be placed in jeopardy by the actions of your club. We have notified the Liquor Commission of our concerns and our intentions and we have been in consultation with the City Attorney and the Code Enforcement officers. By every legal means, we will ensure the safety of the Manchester Police Officers and the citizens of Manchester. It is incumbent upon you to devise a method by which to control the persons who patronize your establishment. Failure to do so will result in the Manchester Police Department and the City of Manchester seeking to have your license revoked. Please advise me at your earliest convenience of what steps you have taken to ensure that a repeat of the occurrences of November 13 does not occur.

Exhibit G is again the renewal of the license, with again all of the stipulations being attached to it and that was renewed on May 19, 1999. Exhibit I, and what I would like to do here again, is jump to the end and then I am going to come back to the beginning and go through. I am not going to go item by item, but what I would like to point out to the Committee is that this is a synopsis of activity of the Pyramid Nightclub, which began on 1/1/99 through 1/7/2000. On 1/7/2000, at 1:44 AM, officers responded to a gunshot wound to the hand. Ambulance on route. Almost every available unit in the City was sent. One subject was confirmed to have been shot and another subject had an injury to a hand. There was a large group of people who had just left the Pyramid Club. Now I would like to go back to the beginning and again I would like to just go through it quickly. I know there are a lot of pages here, but I think what is important here is to see the type of conduct that we have had to continually put up with at this club. On 1/2/99 at 2330 hours, officers responded to a fight in progress. Arrested was one male from Derry, NH. The second suspect from Londonderry, NH was temporarily detailed. There were several witnesses interviewed. The victim of the assault is the father of the owner of the Pyramid, John DeVito, who ended up taking stitches, got hit in the face with a beer bottle. On 1/8/99, a female was arrested from Pembroke, NH. On 1/15/99, a male was arrested in the parking lot in reference to an accident. On 1/17/99, again another person was arrested for disorderly conduct. If you skip to Page 2 of that report, on 2/13/99, officers responded to an assault and talked to a female victim who was 24 years of age. No arrest was made. On 2/13/99, officers responded to a fight and arrested a 19-year-old from Manchester. On 2/14/99, a motor vehicle stopped at the Pyramid Nightclub and a summons was issued to a 21-year-old from Somerville, MA. On 2/18/99, a male, age 28, was arrested for disorderly conduct and resisting arrest. On 3/21/99, two subjects were arrested for disorderly conduct. One a female, 23 years of age, and a male, 23 years old, both from Massachusetts. On 4/9/99, a male was arrested for disorderly conduct. On 4/16/99, several fights were reported. Officers requesting assistance referenced a large crowd. Several units responded. Arrested at the scene was a male, 20 years of age, from Dorchester, MA. On 4/23/99, officers responded to a possible fight in the parking lot and also possible gunshots. It was found later that a quarter stick was set off in the parking lot. No arrests. On 4/24/99, officers responded and talked to a complainant who stated that at 0145 hours she was attacked from behind by a female, 28 years of age, from Concord. The victim in the case was from Northwood. No arrest was made. On 4/29/99, Liquor Inspectors arrested a 19-year-old from Manchester for liquor violation. On 5/22/99, disorderly conduct arrest of a female, 21 years of age. On 5/29/99, arrest of a male, 28 years of age, from Manchester. On 5/30/99, disorderly conduct of a female, 27 years of age, arrested from Manchester. On 6/17/99, a female, 21, from Allentown was arrested for violation of City Ordinances, liquor violation. On 6/18/99, disorderly conduct of a 27 year old. On 6/18/99, disorderly conduct of a 25 year old from Brockton, MA. On 6/18/99,

arrested for disorderly conduct, a 25 year old from Massachusetts. The subject was asked to leave several times and refused. On 6/20/99, disorderly conduct, male age 32 from Pittsfield, MA. On 6/26/99, detail officers were investigating a simple assault and mutual combat. Subject became disorderly during the investigation and was arrested. He was a 24-year-old from Manchester. In the middle of the next page, 8/6/99, large fight at the club. Reported in the rear of the Pyramid, possible subject with gun. Several on-duty units responded to the club. Arrested was a male, 21 years of age, from Lawrence, MA.

Chairman Gatsas stated I would like to stop you here. We get the gist. Do you have anything else you want to say?

Deputy Chief Robinson replied yes. I would just like to close by saying that after going through this in the City Ordinances, it was determined that there was really nothing more for us to do than to come here and ask to have this license revoked. One thing I would like to just cover is one thing that has happened to us in the past is that when we have come in here we have always been accused of picking on a particular club. I would like to bring your attention to Exhibit J. What I did under the same time-frame that we ran our reports, from 1/1/99 to 1/7/2000, we ran the clubs that you see here. The Pyramid, the Brimmer, Chantilly's, Charlie Peppers, Derryfield Country Club and Stark Mill Brewery. As you can see from the total number of reports taken, by far, the Pyramid exceeds everybody else. I would also ask that nobody jump to any conclusions about who would be the number two and number three problem here because these are total calls for service so they take in someone reporting their car stolen, someone reporting a purse stolen, as well as arrests. By far, the Pyramid is the biggest drain on the Manchester Police Department and time and time again our officers are taken off the street in response to incidences happening there. At this time, I would like to turn it back over to Chief Driscoll.

Alderman O'Neil asked, Deputy, the total number of events listed here, is that general patrol units in the City have to respond. That is not incidents that might be generated by officers on duty at the club?

Deputy Chief Robinson answered the officers made an arrest on duty at the club and that would be represented there.

Alderman O'Neil asked if an arrest was made, that would require some on-duty personnel to at least come over and transport, right.

Deputy Chief Robinson answered that is correct. Any time an arrest is made, on-duty personnel always get involved.

Alderman O'Neil asked the numbers don't lie. There are at least 209 incidents that required a Manchester police unit to go over there, no matter what the situation was?

Deputy Chief Robinson answered that is correct, Alderman.

Chairman Gatsas asked the incidents that you listed here, is that just a portion of them. That is not 209.

Deputy Chief Robinson answered that would be a portion. That would be what we pulled off. What I didn't give you is, for example, a business check where an officer just swings by. We gave you anything of significance for that year's time.

Chairman Gatsas stated so basically there were 92 significant calls in roughly 196 days.

Deputy Chief Robinson replied yes.

Chairman Gatsas stated so that is almost one every other day.

Deputy Chief Robinson replied correct and it is very rare that on any particular evening we don't have officers sent over there for some type of problem.

Chief Driscoll stated we are here asking for the help of this Committee. We believe, as indicated in the many, many pages of documentation that we have given you tonight, that the club must lose their business license. I fear, as the Chief of Police, that if we don't take that action there will be significant harm to a person attending a function there, a person living nearby there or one of my police officers. I realize that it is a lot to ask this Committee to revoke a business license and put a business out of business, but that is what we are asking you to do here tonight. We believe it is important. We believe it is necessary and we see no other choice. This has gone on much too long. There have been numerous warnings. We have notified these people repeatedly in person, as well as in writing of what the standards would be and they have not lived up to those standards.

Alderman Thibault stated a little over a year ago, after hearing about so many of the things that were going on at this establishment, I took it upon myself to call Chief Driscoll and go out there with a police officer until 3 AM. I have to tell you that although there were eight or nine police officers on duty over there that night, I didn't feel safe myself with all of the police officers that were there. I believe that the type of crowd that gathers over there is way beyond what I have ever seen.

I can't imagine that the City of Manchester would let something like this go on. I haven't said much about it since I went out there because I knew there were new owners coming in and I figured it might change and there might be a change for the better, but as I see it now, I certainly would go along with revoking the license because of the activity that goes on there. Let me tell you, I am not a detective, but I saw much activity going on there that I know was not legal or right and there is only so much the police officers can do about it. I would certainly support that 100% and whatever I can do to help get that done, I will do. I want you to know that, Deputy Chief Robinson and Chief Driscoll.

Alderman Cashin stated I don't want to belabor this and I realize that you have a large docket here. I am not going to go back prior to these people owning the club. I met with them when they were first interested in buying the club with their attorney who was not the attorney who is here this evening, but another attorney. We had a long conversation and I pretty much told them about the history of the club and what we had gone through. I really didn't want to open the club, quite frankly, but after talking to their attorney and being assured by the new owners that they would do everything possible to become good neighbors and not cause any problems in the neighborhood, I reluctantly went along with it because I didn't want to put anyone out of business. I do not have any glee being here tonight, to be honest with you, putting anyone out of business but it has gotten to a point that if you read what has been presented by the Police Department, that we have no alternative. We have to yank this license. It just doesn't belong there. I think they have been given ample opportunity to prove that they were going to be good neighbors and it hasn't worked. I would ask you to please yank that license. That is the only way we can work with these people.

Alderman Lopez stated I would like to add that it not only affects the public over there, but it affects the other businesses in the particular area complex that have a very, very difficult time in getting people into that complex.

Atty. Milner stated I am a lawyer for the Concord law firm of Cooke & Molan and I do indeed represent the club commonly known as the Pyramid. The course of my presentation, and I promise that I won't be long, but the course of my presentation will follow along with the following lines. There are two legal issues that I think the Committee should at least be aware of and at least know the position of the club before we go any further. At bottom, that position is that we, with respect, do not believe that this Committee has the proper legal jurisdiction under the circumstances presented by the police complaint, to revoke that license. I want to get into that a little bit so at least there is an understanding of where I am coming from there. In any event, and without prejudice to that position, the management of the Pyramid Club has obviously requested a hearing so that we could at least address, to a certain degree, the complaint of the Police Department

and also emphasize to the Committee the efforts that the management of the Pyramid Club have taken over the last year and a half or so. We believe that under the Ordinance and under the conditions, they have, in fact, made every reasonable attempt to make sure that the business is run in as safe a manner as possible. First, the legal issues. As the Committee may be aware, this constitutes at least the third attempt by the City and/or the Police Department...

Chairman Gatsas interjected let me just stop you right there. Obviously, we are not learned attorneys here so we will make our decision so let's leave the legalese for you and the City Solicitor to decide those ends.

Atty. Milner replied with respect, Mr. Chairman, I only wanted to touch upon them because I believe the position can be stated in very clear terms and I think the Committee would at least appreciate knowing where we are coming from because the position, really, is absent of any legalese. It simply, if I may, and I will be brief, that the Superior Court and Supreme Court ruled a few years ago that the State Liquor laws preempt the former Bar License Ordinance. It is our position that the Bar License Ordinance, the standard, is the same as the Business License Ordinance and indeed the nature of the police complaint, if you look at the 1995 complaint and the complaints raised in 1997, they are exactly the same. I think your City Solicitor will agree that the law of preemption is the same. This matter should be heard at the State Liquor Commission level. Secondly, and I am closing on the legal part of the presentation, is that in 1997 again the Superior Court enjoined the Police Department's attempts because under the Ordinance and I know it has been amended, but under the Ordinance in 1997 they felt that the nuisance language was unconstitutionally vague and over-broad. Our position again is very simply stated. The Ordinance, even though it has been amended, still has that same language. It still talks about nuisance and the health and safety of the citizens. To require a business owner to be responsible for the actions of others, to be responsible for patrons that leave the club and that have long left the club in some instances, to hold the business licensee responsible does not meet Constitutional guarantees. We are prepared, and I say this without any bravado, that we are certainly prepared to take those issues to the Superior Court again. In any event, we have requested a hearing and we would like to first of all put the complaint, I think, in its proper perspective and then, as I said, indicate to you the number of things that the business owners have been doing. The complaint, and this is the first thing that I picked up on and I know that there was a question from Alderman O'Neil about the numbers. It is not 209 that I have seen and whether there is more or they are counting double. I heard the Deputy Chief's explanation, but I am not sure I understood it. I think a careful examination by the Committee is in order to see whether, in fact, and to what degree there are more calls at this establishment than at the others. I count 135 and out of those, there are 42 disorderly conducts, 24 instances where they cite the efforts of the Liquor

Commission, which I think is important because again our position is this is a Liquor Commission matter. They actually count against us the number of times the Liquor Commission has gone in there. There are 15 noise complaints, which I think is a variance or an Ordinance matter and there are 5 medical calls. The other point I would like to make is that the Pyramid holds upwards of 500 people. The other bars and nightclubs that are listed are quite smaller, so I think that as a matter of percentages, I don't think it is surprising that you are going to get some increase in the numbers. The number of disorderly conduct calls, I think, can be somewhat explained. These people have hired off-duty Manchester police officers to control the premises and when something goes wrong, they make an arrest or some other complaint of disorderly conduct is made. I don't think that is very surprising. Again, I think a careful examination of the Police Department's complaint is in order to see if, in fact, this situation is so exaggerated and so much worse than the other establishments that they have listed. As far as the Pyramid's efforts, I believe the file that the City maintains, as well as the references made in the police complaint that is before the Committee, I think it is clear that the owners here have made some attempt, certainly, whether or not you will agree it has been a reasonable attempt I guess is the subject of this hearing, but certainly there have been meetings conducted and there have been officers hired. In fact at times, as many as eight officers have been hired by agreement with the Police Department. There have been a lot of police officers there as indicated by the Committee. As far as the noise complaints, you see a lot of noise complaints in the complaint. I think there are 40 of them, or maybe not that many but there is a significant amount. There has been, for the Committee's information, a significant amount of funds expended as far as revamping the nightclub as far as trying to prevent how much noise has emanated from the building. When a patron arrives at the Pyramid, and I don't know if any of you have been there or not and I can say that I haven't, but I am told that when these people arrive at the establishment they are given a pat down. You don't find that everywhere. In fact, both males and females are patted down before they enter the premises. So there are no weapons going in there. They are not allowed to wear hats. The patrons aren't allowed to display colors. I think that was the phrase back in the 1970's anyway. So, they go through a significant process before they even get in there. As I mentioned, they hire off-duty police officers and currently there are three on Thursdays, two on Fridays and three back on Saturdays. They have 14 floor people on each night and a significant amount of them cover the floor and the different rooms that are there and there are also three or four of them that patrol and I shouldn't say patrol, but they are out in the parking lot and they also have the littering job and I think the Police suggested we do a pretty good job of keeping it clean. They stagger their closings. There are a lot of people there. That is duly licensed, by the way. There is no violation implicated there but there is a lot of room and a lot of people. They stagger their exits. There is also, for good or bad reasons, but it is also a fact that mostly every night we see a significant amount of presence from the State Liquor

Commission. There are three or four of them there almost every night. I think that it is fair to say that there is a significant effort on the part of the owners here to make sure that what they can control, they do in fact control to the best of their ability with the reasonableness standard in mind. I would also like to talk about what I think is probably the major incident that led to the Police actually filing the complaint. I know that there has been some specific reference to the November 1998 slashing that occurred and more recently the gunshot report from last month. I want to make sure that we are all clear on the timelines there that pertain. These owners have only been here a year and a half or so. There was the one major incident in November of 1998 as the police would call it and there was the other one last month. Let's take the one that happened last month. The testimony before the Committee would be that the suspect was asked to leave that premises well before the incident took place and the police were notified of the individual because there was a scuffle or some other altercation and he was asked to leave. For whatever reason, and I am not casting blame, I am not a police officer and I wasn't there, but that individual was allowed to loiter around the parking lot for a significant amount of time. A significant amount of time passed and another patron left that was involved in the altercation. There was some scuffle, some discussion that took place well off the immediate parking area. In plain view of the police, there was actually a chase. Some of the patrons were chasing, I believe, the one with the gun and the actual gunshot occurred, from my information, almost and perhaps the police officers can tell us more accurately, but off of the premises entirely or certainly near there. So, too, my comments on the November 1998 slashing. This went along similar lines. A fight occurred and the patron or suspect was asked to leave and was allowed by the police officers and I don't know whether it is standard protocol or not but that person was allowed to loiter in the parking lot.

Chairman Gatsas stated let me just stop you for a minute. From my Perry Mason days, I believe that is hearsay evidence and I am sure that the police could come up and give you a different story.

Atty. Milner replied I would invite that. My point is, without getting to the facts then if you don't want to hear them, that you have to within reason, if you are going to pull their license there has to be a certain and significant I suggest connection between the incident and the responsibility of the owner. By the way, the last point on this is that there has never been, from my information, a stabbing or shooting inside the premises and the fights have all occurred off in the parking lot and beyond. I think the complaint references activity that took place well off the premises. I think, again, the Committee should take a strict look at what the complaint is, how many numbers we are talking about, whether or not we really see an exaggerated situation here, and take into account the significant steps that the owners have taken to make sure that this place is run as safely as possible. If

there are any questions from the Committee of me and if I can't answer them Erica DeLuco is here, along with other members of the management staff from the club. If there is not, that is the end of my presentation.

Alderman O'Neil asked, Atty. Milner, where do you live.

Atty. Milner answered I live in Windham, NH.

Alderman O'Neil asked what about the staff members who are here tonight. Where do they reside?

Atty. Milner answered I believe they are from Massachusetts. I don't know that.

Alderman Thibault asked, Asst. Solicitor Arnold, do we have any authority here to pull this license. Where is that at? What is our authority here?

Asst. Solicitor Arnold answered I believe that you do. We are proceeding under the City's Business License Ordinance. Atty. Milner is quite correct about the City's past Bar License Ordinance. That, to my recollection, was in fact repealed by the Board of Mayor and Aldermen. I would disagree with him that we don't have jurisdiction. We are dealing with the Pyramid's license as a dance hall and entertainment center. We are not dealing with them on the basis that they sell alcohol, which he is right in saying is under the exclusive jurisdiction of the Liquor Commission.

Alderman Thibault asked so you are telling me that we are on good footing here if we acted in any way.

Asst. Solicitor Arnold answered I am saying that I believe you have jurisdiction to act, yes.

Alderman Hirschmann stated I was on this Committee in 1996-1997 and the previous owners did appear before this Committee. I don't think any of these gentlemen were on this Committee, but Mr. Porcaro did come before us and have significant problems. I think it did lead to Alderman Cashin having to watch that establishment and it led to our City Clerk establishing, with the Police Department, this business license. I see Erica DeLuco's signature signing for a business license and saying that she is going to adhere to these conditions. They are tough things. If I am going to err, I am going to err on public safety. I am not going to err in your favor I am telling you right now. You gave a presentation for the past half an hour and you talked about criminal activity. You didn't tell me about any good things that happened down there. There are a lot of establishments that have licenses with the City. There is Antics Bar & Grill on South Willow

Street. They have sophomores from the high schools go over there. There is no alcohol, no crimes, no anything. There is no stabbing, no shooting, no criminal element or criminal activity. I don't think any of us want this in our City. If you want this up in Concord where you are from we will send it up there or to Windham or wherever it is going. I did take all weekend to read all 100+ pages. As far as public safety in the City goes, the new owners, the old owners, all of the owners of the Pyramid have been negligent to some degree for what has been happening here because the element of people that are going there aren't nice people. There are not nice things going on there in my opinion. There are a lot of bad things happening and I don't go there.

Atty. Milner responded it is pretty hard for me to sit here and respond to a charge that not nice people go there. I am responding to a specific complaint and that is all I can do, Sir. I can tell you that what is going good down there is at least you have a business running. You have business owners trying to make a living down there. You have a lot of individuals making a living down there and that is there business. Now I understand we don't want bad things to happen in our neighborhood, but I think we can also agree that the Constitution means something and the fundamental right to run a business means something and unless you can put something as to why these people are to blame...

Alderman Hirschmann interjected I am, Sir. Item 4 says the licensee shall make every reasonable effort to prevent the establishment from becoming a proximate cause of significant increase in criminal activity. That sentence right there. You are a significant increase in criminal activity in the City of Manchester. The Police Chief has to come down here, 209 cruisers had to respond to your establishment in 18 months or whatever it was. That is a significant thing in our City and I am not going to enter into a debate. I am done.

Alderman Cashin stated I would just like to comment on a couple of things the attorney said. One, it seems to me that the Liquor Commission is spending an inordinate amount of time down there at the club to keep an eye on it. Secondly, based on what he said, we have a patron running around the neighborhood, a residential neighborhood I might add, with a loaded gun being chased. I ask you...we can't tolerate this.

Chairman Gatsas asked Atty. Milner if he had a copy of the letter from Red, White & Brew, Inc.

Atty. Milner answered no, I don't.

Chairman Gatsas stated just for the record, that is another business owner I assume in the same plaza that certainly is not happy with the things that are happening there. Let me ask you a couple of questions. Do you have the Deputy's report? Go to Page 40. It says liquor offense. The Liquor Inspector arrested a male age 22 from Lawrence, MA and also arrested a male, age 18, from Lawrence, MA. I assume that if people are drinking under age on premise that there has to be some liquor violations.

Atty. Milner replied that is my point. My point is that if there are liquor violations...

Chairman Gatsas interjected that is my question. Are there?

Atty. Milner replied I don't know. I have never seen one. I am not a fact witness here, Sir. I have never seen one so I can honestly say that I don't know. I think your question goes to my point that these are liquor violations so we should be in front of the Liquor Commission.

Chairman Gatsas stated if the establishment is serving minors, that is a serious offense. That is all I am saying. Obviously, if you look at what the business license asks for, it is not to serve minors.

Atty. Milner responded I can say that if they had served minors they would be subject to a penalty from the State Liquor Commission.

Chairman Gatsas called for a recess.

Chairman Gatsas called the meeting back to order.

Chairman Gatsas asked if there was a motion.

Alderman O'Neil moved to revoke the business license issued to Julia Entertainment Corp. d/b/a Pyramid Entertainment Complex based on the fact that they have not lived up to the agreement that they signed, specifically items 3 and 4 of that agreement. Alderman Thibault duly seconded the motion. There being none opposed the motion carried.

Alderman Gatsas addressed Item 8 of the agenda:

Item 7 (Formalize Administrative Regulations) and Item 8 (Revise Finance Police and Procedures Manual) of Melanson Health & Company Management Letter dated 1/11/00 referred to Committee by Board of Mayor and Aldermen.

Mr. Clougherty stated you may recall that in the management letter that was presented to the Board about a month ago, there was an item in there. Two items really that were referred to this Committee. The first item deals with an administrative procedure for the adoption of rules and regulations. That really requires an action by the Board. With respect to that, we don't have a position in Finance but the concern or the caution that we would ask the Board to consider is that I talked to the Director of Administrative Services for the State yesterday and they haven't adopted regulations up there or standards simply because the process of adoption is so onerous that they don't go through it. So with respect to Item 7, I think we can get to where the auditors want us to be by addressing Item 8, which is to make sure that we have written policies and procedures for the City. Part of the problem with what we have is not that we don't have procedures or policies, it is that they are scattered all over the place. As a new Alderman, it would be nice to come in and have a codified document that would have the policies so if we are talking about ethics you can turn to the ethics section and there is a number there. If you are talking about investments, you can turn to it and right in front of you have what the current policies are as the discussion is going on. If we had those documents in front of us and on a given night the Board wanted to change a policy, well that is great. We could take that, make the copies, get it out to the departments, have them substitute it and everybody would be working from the same book during the course of the year. What we are in the process of doing is updating the procedures for the finance operations for the City dealing with the new computer system. The last time we did this was the previous time the City bought a computer system, which was about 10 years ago and it was included in the bond issue. We are going to do that again as part of the bond issue that is currently set aside for the HTE system. The last time we did it, it was about \$100,000 and the reason it cost \$100,000 was because you had four volumes and you had to make copies for all of the account clerks and payroll clerks and there is a lot of volume there. What I would like to see the Committee do, if possible, is keep this as an item so that over the next couple of months we would keep coming back to you and giving you updates on the manual. We will go out with an RFP. We will hire consultants. You are welcome to look at that and I would be happy to provide that to you. Once we bring somebody on, it would be nice to get the Committee's input in terms of the format of the procedures and making sure that you are looking at all of the policies that we compile to make sure that there is not something that we are missing. It is good to have your input on that. You would see the progress that is being made to get this completed. There is a meeting of the Systems Advisory Committee sometime next week. At that point, we will go ahead and start with the RFP process and start to get the procedures codified. I don't want to just get received and filed. I would like to have your input on this as we go forward.

Chairman Gatsas asked obviously the computer system has been in effect now for what, three or four years.

Mr. Clougherty answered it has been in effect for about two years and we haven't had the procedures updated because one of the things that we have been wrestling with is what is the relationship between the City and the School. Now that the court ruling has been decided, as the auditor said that night, they wouldn't have recommended that we do the procedures beforehand, but now that is done, we should move forward.

Chairman Gatsas asked we are dealing with over \$100 million budget. For a computer system to not be readily available at a push of a button to get numbers that you may be looking for or if you go past that June 30 date for year end, I see that as some very important issues. People telling me that downstairs they have open cash registers for a two year period because they can't do processes, I can tell you at this Committee we are not going to be looking at things in an eight, nine or ten month period. We are going to be looking for things to happen very quickly. Maybe as the private sector looks at that instead of how the public sector looks at that. What are you talking for a timeframe for this procedure analysis?

Mr. Clougherty answered as soon as the Systems Advisory Committee meets and we talked about this at the last meeting but Diane wants to go back to them and it comes out of her budget so that is fine. If we can get approval next week, I would like to see the RFP go out that week and get somebody hired within the next few weeks as a consultant and start this process and put a very tight schedule on it. That is one of the reasons that I would like to come back to this Committee is to get your support in making that as tight and as efficient a schedule as possible. I just don't want to leave here...and I agree with you, Alderman, I don't want this thing to languish and keep getting dragged out. I think if it has to come back to this Committee it will get done and it will get done efficiently and I think your input will be valuable.

Chairman Gatsas stated let's put a timeframe on it. Why don't you give me a timeframe?

Mr. Clougherty replied I will give you a copy of what we put in for the RFP so you can take a look at that before the RFP goes out.

Chairman Gatsas asked tell me when you think you are going to get it done because I know that you are going to be the one chasing the horse.

Mr. Clougherty answered I would like to have the procedures manual done so that when we start the next fiscal year on July 1, everybody has them.

Chairman Gatsas asked so you are saying July 1.

Mr. Clougherty answered that is what my hope is and I am going to work to that end.

Alderman Hirschmann asked you want to bring in a consultant to create the manual.

Mr. Clougherty answered we don't have the time to sit down and actually do the codification and make sure that they are all done consistently and that is what you are going to have. You are going to have an accounting firm come in and take all of the current procedures we have written, make sure that they are continued forward so that we don't lose any of our procedures, and that they dovetail with the procedures for executing a transaction on the computer.

Alderman Hirschmann stated I don't mean to be negative. I am just stating a fact, but the past couple of years every time we have a consultant involved in something, we get burned. There is nobody in City government that can help us? I mean Ted and I come from the business sector and we don't run out and hire staffs of people to put together a manual. I know that the HR guy put together an employee handbook? Did they hire a consultant to do that?

Mr. Clougherty replied I believe that was a result of Yarger Decker and a lot of the work that went into that.

Chairman Gatsas responded I believe where Mr. Clougherty is coming from is you don't want the fox watching the hen house and for somebody to put procedures in place that we have the ability to go back and say Finance is not doing this, gives us a little bit of a check and balance.

Alderman Hirschmann asked how much is this going to cost.

Mr. Clougherty answered the last time that the volumes were put together, it was about \$100,000. Again, as I mentioned a lot of that is the copying of the manuals once they are done because you have to make copies for all of the people who are doing transactions through the system like Highway and Parks & Recreation. They all have to have copies of that stuff. It is the volume of the first purchase, but after that you can keep them current as you change your policies. We could update them regularly.

Alderman Hirschmann stated, Kevin, you and I know that we hired a central purchasing consultant and he gave us a glowing report that we unanimously adopted and sent to the full Board and it is buried somewhere and lost. \$25,000 we spent on that one. I am just making a point.

Chairman Gatsas replied I agree with you, Alderman. I think we need to take a look at it. If we are bringing somebody in who is going to spend \$100,000, I disagree with Kevin wholeheartedly that you may have to burn the midnight oil to get that done by July 1.

Mr. Clougherty responded if we do, Alderman, I think that is a commitment that we all have to make but again it is not going to just involve Finance. It is going to involve a lot of the other departments and your support will help me to get everybody else motivated too. Certainly, this has to go out to bid and we will try to get it negotiated down to the lowest possible dollar that we can. I don't want it to just go away into oblivion and receive and file my letter.

Chairman Gatsas asked, Kevin, maybe you can check with some other cities.

Mr. Clougherty answered we have already sent out letters requesting stuff from Boston and a lot of the major cities here as well as the Government Finance Officers Association.

Alderman O'Neil asked, Kevin, four of the eleven issues on the management letter you reference they belong to other departments. Two to Info. Systems, one to the Tax Collector and one to Planning. When are we going to see responses from them on what measures they are taking to correct those?

Mr. Clougherty answered if you want I will follow-up with that tomorrow and invite them to your next meeting. The reason that I said that is it is not that I said that, but the audit report said it was the other departments.

Alderman O'Neil stated but if they are not going to be your responsibility, then the department that they are the responsibility of need to address it.

Mr. Clougherty replied I will be happy to send a letter tomorrow asking people and I will run it past Leo and get it circulated.

On motion of Alderman O'Neil, duly seconded by Alderman Thibault, it was voted to table this item.

Chairman Gatsas addressed Item 9 of the agenda:

Communication from the American Lung Association of NH requesting the placement of a banner from mid-March to mid-April, 2000 in conjunction with a comprehensive tobacco prevention and education campaign.

On motion of Alderman O'Neil, duly seconded by Alderman Hirschmann, it was voted to approve this request.

Chairman Gatsas addressed Item 10 of the agenda:

Communications from Mary and Henry Beauchemin and Doris Stanley regarding MediaOne.

On motion of Alderman O'Neil, duly seconded by Alderman Thibault, it was voted to refer this item to the cable franchise negotiations.

Chairman Gatsas addressed Item 11 of the agenda:

Communication from Attorney Pestle and Miles submitting model documents, as enclosed herein, to help municipalities and attorneys With cable and cellular matters.

On motion of Alderman O'Neil, duly seconded by Alderman Thibault, it was voted to refer this item to the City Solicitor and Atty. Eptsein.

Chairman Gatsas addressed Item 12 of the agenda:

Communication from GeorgieReagan seeking authorization for the placement of a banner on Hanover Street one week in advance of February 5 and May 16, 2000 in conjunction with Big Band Music events to be held at the Palace Theatre.

On motion of Alderman O'Neil, duly seconded by Alderman Hirschmann, it was voted to approve this item.

### **TABLED ITEM**

13. Communication from former Deputy City Clerk Bergeron submitting information regarding licensing procedures and police and fire staffing arrangements at selected civic centers in New England.

This item remained on the table.

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.

Clerk of Committee