

COMMITTEE ON ADMINISTRATION/INFORMATION SYSTEMS

June 22, 2000

5:45 PM

Chairman Gatsas called the meeting to order.

The Clerk called the roll.

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

Messrs: K. Clougherty, D. Prew, S. Musat, Deputy Chief Robinson, Chief Driscoll, Deputy Solicitor Arnold, Mr. Trimble, Atty. Wenners

Chairman Gatsas addressed Item 3 of the agenda:

Ordinance Amendments:

"Amending the Code of Ordinances of the City of Manchester to provide that the Committee on Accounts shall order the audit of City accounts and shall select the auditor and that the auditor shall report to the Mayor, by deleting section 35.017 subsections (Z), (AA) and (AB) and adding a new section 35.031."

"Amending the Code of Ordinances of the City of Manchester to transfer the internal audit functions from the Finance Department to the Office of the Mayor by deleting section 35.017 (X) and (AC) and replacing it with a new section 35.050."

Mr. Clougherty stated we have provided the Committee this evening with something to take a look at. My recommendation would be to set-up a sub-Committee to deal with this issue so that we can work with you over the next few weeks. We understand that it is summer and it is hard to get people together and it may take awhile but hopefully by the end of the summer we can come up with a report for you on all of the financial services. We should take a comprehensive look at it because it hasn't been looked at in a long time. I am not opposed to moving the audit function. In fact, if you look through this information you will find that my position has been that it should be something independent. The problem that we have is that by State statute I am required to do it. I don't want to get into a situation where the statute is telling me to do it and have somebody else performing it. I think we can get this all accomplished and do it in a nice, neat fashion. I would ask for your indulgence to go forward and look at this.

Alderman Hirschmann stated I am the Chairman of the Accounts Committee and myself and my members have been the oversight of this function. We have worked with Finance to steer the audits to where they should be performed, when they should be performed, and in what fashion. If there is anything that we wanted looked at we gave them the direction and the followed up to the Aldermanic Committee. I honestly don't see...moving this into the Mayor's Office is not going to...

Chairman Gatsas interjected I think we had conversation about it that it was going to be reported to the Mayor and Aldermen. So Aldermen would be added to both of those ordinances.

Alderman Hirschmann replied that is not what it says.

Chairman Gatsas responded I know that it is not what it says, but I know there was conversation about it the very first time we got this.

Alderman Hirschmann stated as it is written, I am opposed to doing this. I want to leave it where it is.

Alderman Pariseau asked how would this affect the Committee on Accounts. They could still...

Mr. Clougherty answered the staff would be in the Mayor's Office as I understand the way it is written. Now, I think that the Mayor wants to do the right thing and tried to get an ordinance pulled together and wants to see the issue resolved properly. I shouldn't speak for him, but I think that is what the goal is here but in doing that you want to make sure that you have clear lines. In most of these other areas when you go through and look at the materials I handed to you usually if there is a City Manager as a Chief Executive Officer then you will have the internal auditor report to him but it is very rare that you will have an elected executive officer with that function. It usually goes to an audit committee and that is pretty standard. That is what our position has been over the years. The reason that it is assigned to me is because I am considered a legislative official. You guys appoint me, not the Mayor. It should be, in my opinion, a separate entity and not under my jurisdiction that reports to the legislature or a legislative committee. That is something that you can look at with a sub-Committee and come back with what you feel is the best approach.

Alderman O'Neil stated, Kevin, based on what you said in my opinion the Mayors in Nashua and Manchester are the City managers and I believe they are the only two that are strong Mayors. I think every other City that has a Mayor has a City Manager so based on the comment you just made in the case of Manchester and Nashua then I don't see any problem with the auditor reporting to him in all honesty. I know a city like Worcester has a Mayor and a City Manager.

Mr. Clougherty replied the difference here, Alderman, and again speaking generically...I am not here and the reason I would like a sub-Committee to deal with this is to deal with as I mentioned some other professionals and here what they have to say and not take my word for it. The general understanding I have is that the Mayors are elected where the City Managers are appointed by the Board and that is why the auditors report to them.

Alderman O'Neil stated I have always thought that the Mayor of Manchester and the Mayor of Nashua were the City Managers and that was part of their responsibility. You shake your head no but they are responsible for the day-to-day operations of city government in both cities.

Alderman Pariseau stated the appointment of a City Manager has been talked about.

Alderman O'Neil replied I am not suggesting that we need a City Manager. I am just saying that I believe the City Manager function is part of the Mayor's function in Manchester.

Chairman Gatsas asked when is the next full Board meeting.

Clerk Bernier answered July 19.

Chairman Gatsas asked the sub-Committee you are talking about Kevin would be CPA's.

Mr. Clougherty answered and probably some people in this group but it would be CPA's and somebody independent to come in and look at.

Chairman Gatsas asked would the Committee be opposed to this. Can you arbitrarily...for the betterment of the City can we find somebody from one of the big six to sit down and give you two hours of time and give us some sort of analysis because I am not going to allow this to drag on all summer. I can tell you that we will either...can you schedule another meeting for Administration.

Clerk Bernier replied there is one scheduled for 7/19, but the first two weeks in July there is nothing scheduled.

Chairman Gatsas asked Mr. Clougherty could you have a report by July 19 because I will make a suggestion that we table this until you come in with something and we are either going to put this out on July 19 or take the recommendation that he has in place.

Alderman Pariseau stated I don't have any problem if the Chairman appointed a sub-Committee.

Chairman Gatsas stated I don't have a problem if this whole Committee wants to sit on the sub-Committee with three people that are coming from there or whatever you want to do. It is certainly your choice. Whatever this Committee so desires.

Alderman Hirschmann stated I have questions about this whole process to begin with. The Mayor put a hiring freeze on. We don't have an internal auditor now. Are you allowed to hire one?

Mr. Clougherty replied we did an ad and to be honest we got two responses and I think one was determined not to have met the qualifications. We are still dealing with the issue that the salary is not competitive.

Alderman Hirschmann asked so the internal auditor is going to be moved under the Mayor's staff and under his budget and under his direction and if he doesn't want to fill that position he doesn't fill it and then he has more money in his budget. I like it the way it is. Why is he doing this? Tell me the reason this is happening. It is a control issue. That is what it is.

Chairman Gatsas answered I am not here to defend anybody but I can tell you...if you were asking for an internal auditor and having that auditor sit in the Finance Department with the delegation of authority in the Finance Department, that is a pretty tough place to be.

Alderman Hirschmann asked is it better to have the Mayor breathing on him.

Chairman Gatsas answered maybe not better to have the Mayor breathing on him, but if you ask me the finance guy that is going to be telling this guy what he gets for raises and everything else is not the place for him to be. Now I am not saying that maybe he doesn't stand by himself somewhere else.

Alderman Hirschmann stated I think it is quite the opposite of the way you are portraying it. I think that the expertise is in his department and all of the questions the internal auditor has, the Mayor and his staff certainly cannot answer and this fellow is going to have to run down the hall every ten minutes and ask them a question.

Chairman Gatsas replied well I will let Kevin answer. If you don't believe what I am saying I will let him answer.

Mr. Clougherty stated I appreciate the support but I think from purely an internal control standpoint it should be separate and it should report to a legislative committee, which would be an Aldermanic Committee. That, I think, is the way it should be but I think you need to hear from other people who have looked at this and not listen to me. Could I contact the State auditor and have him give me the recommendation of who he thinks would be good to sit on the sub-Committee so there is a bit of a buffer there so it doesn't look like I am padding the Committee. Would that be okay?

Alderman O'Neil asked could you just let us know who those people are going to be.

Chairman Gatsas asked can you get a list of five and we will pick three. How is that?

Mr. Clougherty answered that sounds fine to me.

On motion of Alderman Pariseau, duly seconded by Alderman O'Neil, it was voted to table the Ordinance amendments.

Chairman Gatsas stated while you are still here, Kevin, let me just tell you that in this Committee in the future and you can tell them Mr. Clerk, that we will not accept, I will not accept as a Chairman this kind of stuff dropped on any Committee member the day of the meeting. It will not be looked at and it will not be considered. Any documentation from anybody including anybody that is coming in to talk to us. This Committee will not accept that. I don't think it is fair to drop something in front of five people and have them look at it.

Clerk Bernier asked can a vote be taken in this Committee to direct the City Clerk's Office to send a memorandum to all department heads, Mayor, etc.

On motion of Alderman Thibault, duly seconded by Alderman O'Neil, it was voted to direct the City Clerk to send a memo to all department heads informing them that the Administration Committee will not accept back-up information for agenda items the day of the meeting.

Chairman Gatsas addressed Item 4 of the agenda:

Communication from Alderman Vaillancourt suggesting a Charter amendment be drafted, sent to public hearing and prepared for the November ballot relative to campaign expenditure/donation forms.

Alderman Pariseau stated in reading this letter, Mr. Chairman, I find it a little vindictive. The effort is to get back at individuals and organizations.

Alderman Pariseau moved to receive and file.

Alderman Hirschmann stated the way that campaign contributions are now, if someone raises less than \$500 in a period of and you can probably help me with this Leo.

Clerk Bernier replied 10 days before and 10 days after the quarterly report.

Alderman Hirschmann stated so that report is a generic report with an autograph, but it doesn't show the contributors at all. If you raise \$490, you hand in one yellow form with your signature and it doesn't tell you who gave you the \$490. I think that whatever comes out of this should say from dollar one who gave you the money up to whatever amount.

Alderman Pariseau replied it is a State statute.

Clerk Bernier stated Alderman Pariseau is correct. It is a State statute. You can change the Charter to address that issue.

Alderman Hirschmann asked isn't that what this communication says. It says Charter amendment. So, we will have an opportunity to make something right.

Clerk Bernier answered if you would like, yes.

Alderman Hirschmann stated in my opinion there is a lot of ghosting of contributions and some people could, in fact, raise \$3,000 and sign a sheet saying I raised under \$500. No one knows. No one audits it. No one looks at it.

Alderman O'Neil asked what is changing it going to do.

Alderman Hirschmann answered they should report every penny they raise.

Clerk Bernier stated this is a very sensitive issue. You can start from the Federal government all the way to the local government. If you are going to set-up something and I think you are right, you have to have a Committee to review these statements and laws need to be spelled out. It is really detailed. Campaign reform has been discussed for years.

Alderman O'Neil duly seconded the motion to receive and file.

Chairman Gatsas stated the only problem that I have is that if the candidate looks to come back and run and nothing was filed there should be a penalty imposed.

Clerk Bernier stated if a candidate wins a nomination and doesn't file, he cannot take office. There is really nothing else we can do. Unless somebody presses the issue, there is a State statute where they get a fine of \$25 a day for not filing.

Chairman Gatsas stated if someone didn't press it and somebody comes back in two years to run again, is there any...

Clerk Bernier replied no.

Alderman Hirschmann stated the fact is that they don't do it.

Chairman Gatsas stated I don't think that is right.

Alderman Pariseau stated that would be a campaign issue. It would be taken care of one way or another.

Chairman Gatsas stated I find that as a problem if somebody doesn't want to file.

Alderman Pariseau replied I agree but creating more paperwork is not going to solve the problem.

Chairman Gatsas responded I agree, but if we impose some sort of fine or an ordinance that says if you want to come back and run that it is \$1,000 fine for not filing the last piece of documentation because I don't think it is fair for you and I or the people who have had to go through the paperwork. There should be something that stops people from doing that.

Alderman Hirschmann stated there was one candidate for Mayor and I don't want to use a personal name but they came from the north end and it wasn't Ray Wieczorek but they ran for Mayor and six, eight or ten months went by and they didn't file all of their spending for the campaign.

Clerk Bernier replied we did send out a letter.

Alderman Hirschmann stated he got a little blurb in the City column.

Alderman Thibault replied this thing we are talking about now is not a person, it is a Committee. It is the Democratic Committee and I don't know why they didn't file.

Clerk Bernier responded they did file. We gave them a deadline and they filed.

Chairman Gatsas called for a vote on the motion to receive and file. The motion carried with Alderman Hirschmann being duly recorded in opposition.

Alderman Pariseau stated I would suggest that the City Clerk, if it is still going on with the people in this letter, that they be sent additional correspondence from the City Clerk's Office enforcing the penalty.

Alderman Hirschmann asked could we make a motion to enforce the penalties.

Clerk Bernier answered it is regulated by the State. It is State law. \$25 per day.

Alderman Pariseau stated I would send a letter to those people involved telling them that you will impose that fine.

Clerk Bernier replied we are not an enforcement agency for political contributions. It is not drawn up that way. The Secretary of State doesn't do it. The Federal Election Commission doesn't do it. It is when a complaint comes in like if Alderman Pariseau complained about Alderman O'Neil. That is how the process starts and that is how it gets regulated. We don't police these. For example, we had an Alderman concerned that some individuals or a group or committee did not file and he was correct. I sent out a letter and indicated to them that they had five working day to file and it was done. I informed them that the \$25/day fee would be charged from that day on if they did not file.

Alderman Pariseau asked so all of these individuals named have filed.

Clerk Bernier answered that is correct.

Alderman Vaillancourt stated I spent a great deal of time in the last couple of days putting some data together on this. I will be doing a handout that I will give to all of you later. I have done some analysis of the spending in the last election cycle. I agree with John McCain and Bill Bradley that money has become a corrupting influence in politics and we must take action to avoid this or cut down on it. Obviously, campaign filing is a good thing, but campaign filing is only effective to the degree that it gets out and is available to the public. Now it is all fine and good for everybody to file and it sits there in a file, which is basically what it does but we have to have some kind of a system where the public's trust is restored. The fact that the Democratic City Committee spent approximately \$30,000 and was six months late in filing. Frankly it is an outrage and they were just one of the biggest offenders. There were many other offenders. The fact that it just sat there for five or six months without anything happening is something that does not bode well for the public trust in the process. I think all of us should redouble our efforts to make sure that this information is disseminated to the public and that we know when we are in violation. Without seeing this and without shining the light of public scrutiny on it, we are never going to get to the public trust that money spent on elections is proper. As I said I have done an analysis that I will be handing out to you later. It is just absolutely amazing some of the money that was spent and it is absolutely amazing that people would think that somebody is going to spend \$30,000 for a seat that pays \$4,000 and accept all of these contributions without any quid pro quo. We are involved in restoring public trust and to just let this sit here the way it does now does not restore public trust. I would like to have a Committee appointed, which I would be happy to serve on and even to Chair including the City Solicitor, City Clerk and any Alderman to spend some time looking into this. It doesn't have to be done in a hurry and it doesn't have to be done over the summer. Secretary of State Bill Gardner would be another person that would have valuable information. It seems to me that we owe the public an effort to restore public trust and when you have this kind of thing happening, this is an absolute destruction of the public trust and maybe if we can start the ball rolling with some good legislation at the City level, maybe it could be a model for elsewhere. I would certainly like to see something done with this and I would be happy to serve on any special Ad Hoc Committee that might be formed.

Alderman Pariseau stated I think the City Clerk addressed that. If and I am sure that he gets the message, if anyone files a complaint about any committee or any individual, the City Clerk will follow the process that is already in place. We don't need another Committee. We don't need additional paperwork to enforce the Statute. I think that is what will happen in the future.

Alderman Vaillancourt replied as you alluded to, the City Clerk only acts if a complaint has been filed.

Alderman Pariseau responded not only the City Clerk but the State and Federal also.

Alderman Vaillancourt stated I think perhaps we need an Oversight Committee to look into these things. When I was going through the filings, you wouldn't believe the amount of mistakes that are made on these filings. It is almost impossible to follow the paperwork. I could file a complaint on virtually everybody that filed. I don't mean to speak about anybody in particular. Things on the wrong lines, things added up improperly...it is a mess and whether you want to ignore the mess or not, that is up to you. If you want to say well somebody has to file a complaint on everybody that is something to but I think the public deserves a little better than that and we are the ones that should be doing this truthfully and not waiting for someone to file a complaint, although I would be happy to start filing one everyday.

Chairman Gatsas stated the motion to receive and file already passed with Alderman Hirschmann duly recorded in opposition.

Alderman Vaillancourt stated I will file a minority report then.

Chairman Gatsas addressed Item 5 of the agenda:

Referral from Committee on Community Improvement regarding the HTE system.

Ms. Prew stated what is there is the response from HTE.

Alderman Hirschmann asked they are not coming to tell us what happened.

Chairman Gatsas stated my concern is that the plan doesn't talk about any monetary correctiveness in case the plan isn't followed through.

Ms. Prew replied well the bond is there should they not follow through on the contract.

Chairman Gatsas stated we are back at square one and in no different position than we were when he came and talked to us on May 30.

Ms. Prew replied I have to say that what he has laid out here we have seen the activity that is going on to complete it in terms of addressing issues, getting people together to review the enhancement issues, etc.

Chairman Gatsas responded my concern is that the financial position of HTE is so fragile that if something happens to them tomorrow, next week or five months from now, what do you do. The doors are closed and you have a piece of software. What do you do with it?

Ms. Prew replied I believe that another company would come forward to pick up their customers. They have over 1,600 customers and these kinds of things do occur in the marketplace. Another company would pick-up the software.

Alderman Thibault asked that software is compatible to almost any other computer system isn't it. As I understand, a lot of this software is compatible to other systems.

Ms. Prew answered it is a specialized software.

Chairman Gatsas stated so that is my concern. Until that happens though, as we know if something goes into bankruptcy proceedings and until those have to be sorted out or sold off or somebody picks them up what do you do if you have a problem. Who do you call?

Ms. Prew replied people who were with HTE or left HTE have gone into the consulting business. What are you looking for in terms of guarantees?

Chairman Gatsas responded let me worry about the guarantees. You answer our question first. What do you do in six months if HTE doesn't exist?

Ms. Prew replied we would hope that someone else would pick up the product.

Chairman Gatsas responded nobody does pick up the product. Now what do you do?

Ms. Prew stated the employees who have worked with HTE and supported the product would be out of a job and there are those out there now providing support. We would be working with the user community and the 16 other clients to address the issue.

Alderman O'Neil stated I saw a note and I can't remember who provided it but I believe it was Spokane, WA...

Ms. Prew interjected Tacoma, WA.

Alderman O'Neil stated they called the bond on it.

Ms. Prew replied yes, they did. We became aware of it and after discussion with the City Solicitor's Office I did contact them. They are a large utility company. They had contracted with HTE to provide them with a new utility system. Their needs were such that their contract called for HTE to do the entire thing on-site. People were supposed to be there and work there for however long it took. HTE did not produce the staff that was necessary to do that. It was a Year 2000 issue for them. Their software could not function and so at a certain point they had to make a determination if they were going to be able to get through Year 2000 and they found that HTE was in breach of their contract. They had to call in other resources and what they did was they made their own software components.

Alderman Thibault asked how many departments are not on HTE now or haven't been able to get on for whatever reason.

Ms. Prew answered as far as the central system, all of the departments are on. There are a couple of modules that are still to be installed. Most of that is based on the departments involved and what their schedules will allow.

Alderman Thibault asked School is not on HTE, right.

Ms. Prew answered School opted to leave the City system when they separated from the City.

Chairman Gatsas asked how long was the process...I assume that you talked to either the City that is in that article or did you talk to Tacoma directly or did you talk to HTE.

Ms. Prew answered we contacted the company in Tacoma directly.

Chairman Gatsas asked did you ask them how long they were in the process.

Ms. Prew answered I believe and I was looking for my notes before I came and I was not able to locate them but I believe they started the process in 1997 or something like that and it was in 1998 that they...

Chairman Gatsas asked so the software was installed in 1997.

Ms. Prew answered I am not sure that they even got to the point of installing the software with them. HTE was supposed to bring in a staff of people on-site to be there throughout the entire process. Those people never materialized.

Alderman O'Neil asked isn't that a somewhat similar issue here.

Chairman Gatsas answered we have only been putting up with it for two years.

Ms. Prew stated I think the difference is, Alderman, that at this point you do have running systems. There are some issues that are being fixed, but the system is generating your financial statements, it is doing payroll, it is putting out the tax bills, it is putting out the utility bills. The modules are functioning.

Alderman O'Neil stated there are still bugs that need to be worked out and the time frame it has taken to get to today is longer than it should have been. If we were building a bridge we wouldn't put up with this. Contractors are...when somebody says they are going to deliver a project by a date, we expect 100%.

Ms. Prew replied you asked the gentleman from HTE to provide a plan as to how he was going to rectify the problems that exist and he has provided that.

Alderman O'Neil responded he certainly has but there is no timetable to it.

Alderman Hirschmann stated it says June 26 in my letter. That is next week.

Alderman O'Neil stated it says June 26 the project manager will prepare a detailed project plan.

Ms. Prew replied you have to go through the individual items. On the enhancements, these are items that people had requested changes be made to the system. What they proposed to do there is during next week there will be conference calls with people who requested these enhancements and they will be speaking with the project managers of those applications to discuss what the issues are and what the possible resolutions are.

Alderman O'Neil stated let me stop you there for a second. Diane, the dates here say to discuss not resolve. Discuss. We have seen a month go by and now they are scheduling time to discuss it.

Chairman Gatsas stated let me just stop you because I think the questions that I asked were pretty clear and concise. I was not concerned with timetables to fix problems. I was concerned with a timetable of when they were going to monetarily tell us that they were going to sufficiently be able to complete the contract and be around to support it. That is where I was going. I don't have a problem asking the Clerk for the minutes, but I know exactly what road I was going down because the 10Q said they were in a financial problem and I knew about the payback that is sitting in front of Mr. Thibault. My concern has nothing to do about when they complete this. They can come in and complete this by July 1.

Alderman Gatsas stated my concern is that if they go belly up on August 1 and you are going to sit around having a system that if there are bugs in it, we are in trouble.

Ms. Prew replied they are not going to go belly up on August 1 based on the information that has been provided.

Chairman Gatsas responded you are not a stock expert. You are not anybody that can sit there and look at a financial statement knowing what the internal goings on are of that company to say that they aren't going anywhere. I am saying to you that the chances of them going out of business are pretty good. My bet is that the contracts that they have that they just completed that were put on the tape today I bet had some pretty good guarantees in them for the towns that are negotiating them. Now we are sitting on a problem that is three or four years old. We paid \$1 million plus for this, almost \$2 million. I don't think that anybody needs to put up three years for a software product and say to somebody we will discuss when you think we are going to come in. I would like to see somebody on this Board or this Committee make a motion to the City Solicitor to challenge their bond. I think we have been more than adequately waiting for somebody to take care of what is supposed to have been taken care of. Deputy Solicitor Arnold, do you have a comment?

Deputy Solicitor Arnold replied I have no comment. If this Committee wants us to look at the bond then we will do that. I can't commit at this point to offer an opinion as to whether that would be a wise course of action or whether we would ultimately be successful. Certainly my office is willing to look at it and sit down with the Information Systems Officer.

Alderman Thibault stated suppose we did get rid of this company. What problems would we have with a new company coming in here now and retraining all of our people on their system? What kind of problem is that going to create?

Alderman Hirschmann replied \$2 million.

Alderman Thibault stated but over and above that you are going to have to retrain some of your people because this system...

Chairman Gatsas replied it sounds like they are having problems with this system anyway so whether we retrain somebody, it is like training them from the beginning to begin with.

Alderman Thibault stated I just want to get out of the saucepan and into the fire.

Chairman Gatsas replied I don't think we can get further into anything because we have problems now and it has been here for three years. I guess according to the contract...have you looked at the contract lately Tom.

Deputy Solicitor Arnold responded no.

Chairman Gatsas stated because of the conversations we have been having for the last two months nobody would have picked up a contract and looked at it because we all have concerns about it.

Ms. Prew stated I have had discussions with Tom Clark.

Chairman Gatsas asked has he looked at the contract.

Ms. Prew answered yes. We have looked at the contract. We reviewed it. In the last two months I have spoken with him. We haven't sat down and looked at the contract again. I would ask, Aldermen, are we looking at the contract from the fact that the company is financially weak at this point or are we looking at the contract because there are problems.

Chairman Gatsas responded the first reason we are looking at it is because they are financially weak. The second reason we are looking at it is because we shouldn't be sitting here three years after a contract has been paid for. That is unreasonable.

Alderman Hirschmann asked the four bugs that are listed, how serious are those.

Ms. Prew answered those have been fixed.

Alderman Hirschmann stated the problem that I have, Diane, is you give us this stuff to read at home. Do you think this chart means anything to me? I don't understand it. Do you, Ted? I am not being a wise guy. It just doesn't make sense. I went home and read this whole thing and I read HTE open issues so I am ready to talk about them and on the next page it says they are solved but it doesn't say what the bugs are.

Ms. Prew replied what you have here is a compilation of documents that have...if you...

Alderman Hirschmann interjected we are here to support you and defend you. We are talking about enhancement problems. Enhancements are change orders so that doesn't bother me but bugs and product delivery, that bothers me so I am asking about that. Are we satisfied with the contract?

Ms. Prew responded we can go through this if you would like to do that. What we tried to do is we received 216 comments from departments. What you are looking at are the results of the survey that we put out. These are the comments.

Chairman Gatsas asked where does this Committee want to go with this.

Alderman O'Neil answered in my personal opinion, Mr. Barnett who was here sometime at the end of May...I thought that within that time period there was going to be some movement. To be honest with you, what I read in this letter there is no movement. The only thing they are moving is we are going to discuss it the week of June 26. I don't think he got the message that night to be honest with you.

Alderman Thibault asked how many of these problems have already been fixed, Diane.

Ms. Prew answered the bugs that we are talking about there have been fixed. The separation of the utility billing is now in testing. The testing should be complete by July 1 barring anything unanticipated that could come up as he stated there.

Alderman Thibault asked what about the support problems.

Ms. Prew answered HTE has...as he stated there he is reviewing them himself on a regular basis. HTE has revamped their support...they have realized that their support is an issue and they are corporate-wide trying to take steps to address that.

Chairman Gatsas stated sometimes I have those senior moments and I might have had one right now but I am almost willing to bet that I turned around to Mr. Clark and asked him to look at the bond the night that Mr. Barnett was here. I am almost sure that happened and if that hasn't happened then somebody needs to explain to this Committee and the full Board why it hasn't happened. I am pretty sure it hasn't happened.

Alderman Hirschmann replied it wasn't Mr. Arnold, it was Mr. Clark.

Chairman Gatsas stated I will entertain any motion that this Committee wants to make at this point.

Alderman Pariseau asked did you want to call the bond.

Chairman Gatsas answered making a presentation against the bond and telling them that we are not happy or getting something put back in some escrow account from HTE that is going to fix this problem.

Ms. Prew replied we still have our retainage.

Chairman Gatsas asked which is how much. About \$160,000. I think the time you have spent on this trying to get them to fix a problem that should be fixed is too much.

Alderman O'Neil moved to recommend to the full Board that we start the process for calling the bond. Alderman Pariseau duly seconded the motion. Chairman Gatsas called for a vote. There being none opposed, the motion carried.

Chairman Gatsas addressed Item 6 of the agenda:

Communication from Donald C. Anderson, Executive Director of the Miss New Hampshire Scholarship Program urging the Board to carefully and fairly weigh arguments pertaining to the future of MCTV.

On motion of Alderman Pariseau, duly seconded by Alderman O'Neil, it was voted to receive and file this item.

Chairman Gatsas addressed Item 7 of the agenda:

Communication from Simon Musat, Co-owner of Queen City Cab relative to recent changes in taxi ordinance.

Alderman Pariseau moved to receive and file the item.

Alderman O'Neil stated there are two points that I want to bring up. I think that what we did last week was fine. Leo, is there going to be a problem with air conditioning in the back with these partitions up?

Clerk Bernier replied I can't answer that.

Mr. Musat stated the difference between the cabs here and in big cities is they buy their cabs direct from GM or Ford and they come with everything and they already have the vents in the back doors. We can't put hoses or any kind of things. In the summer time it is going to be an oven in the back and in the wintertime it is going to be cold.

Alderman Thibault moved to remove the partitions from the ordinance amendments.

Alderman O'Neil stated, Mr. Musat, that is fine but the problem is other cities do this and they resolve all of these issues. Why do we have to be different?

Mr. Musat replied I went and you can ask because I did it with Mr. Matt Normand and I am very sorry that he is not here...

Clerk Bernier asked why don't you buy your car at GM like everybody else.

Mr. Musat answered they buy 300 cabs and I cannot order 2 or 3.

Alderman Thibault stated the big cities can order to specification because they are buying so many.

Deputy Chief Robinson stated the Police Department has been in favor of these partitions. Not only did we have a homicide, which most of you are familiar with, but we have had a couple of other instances since then where cab drivers have been attacked and were extremely happy when this passed. What I will tell you is there are partitions that you can put in because we use them in our cruisers and we still get the air conditioning in back. They are vented systems. We don't run any type of hoses back. They have holes in them. They are metal. We use them in our cruisers for transporting prisoners. I would say that they just have to look and maybe have something specially made. At one point we were having them specially made and now we are actually buying them for our cruisers. You can see through them, talk through them and the air travels through but there is no way that you are going to reach in there and grab that cab driver or put a knife to their throat.

Alderman O'Neil stated the only other issue I wanted to bring up is didn't we ask the City staff to work on trying to address this insurance issue and we haven't heard anything to date.

Chairman Gatsas replied I don't think so.

Alderman O'Neil stated I think that is a legitimate concern that the owners and drivers brought up.

Clerk Bernier replied that is being worked on. The ordinance doesn't have to come up until July 19.

Alderman O'Neil stated other than that, I thought that the action we took was correct.

Alderman Thibault stated there is one thing I would like to bring up. GM has already stopped making big cars and Ford is going to stop after next year. What do we consider a normal sized car after that? What are you going to consider a full-size sedan?

Alderman O'Neil asked what is the Police Department going to do when they stop making full-size.

Chief Driscoll answered I hope that they will continue to make full-size. You folks all know that I am a big supporter of full-size cars.

Alderman Thibault replied I am not knocking that. I believe that GM next year is going to stop making the big Chevrolet.

Mr. Musat stated they have already stopped.

Alderman Thibault stated then Ford is next year.

Deputy Chief Robinson stated the way the ordinance reads now it says plexiglass so that may need to be changed.

On motion of Alderman Thibault, duly seconded by Alderman O'Neil, it was voted to change the ordinance amendment for the cab partitions to whatever material they find that is suitable.

Alderman Thibault asked can we get back to the full size cars. What are we going to use as a full-size car so they know what to buy?

Chairman Gatsas answered I would say something that would hold Alderman Hirschmann, Alderman O'Neil and myself in the backseat but that would be real full-size.

Alderman Pariseau stated, Alderman Thibault, we are going to have to find out what they are going to do to replace these big cars.

Alderman Thibault replied the word is already out that Ford is stopping and GM has already stopped.

Alderman O'Neil stated well it is going to be an issue for the cab industry across the country and for a lot of other people across the country.

Mr. Musat asked do you consider a Chrysler Mini Van a full-size car.

Alderman O'Neil answered that is not an issue because we compromised on seven years. It is not an issue right now. You have seven years of cars you can buy when they were still making full-size.

Mr. Musat asked do you consider a mini-van full-size. That is my question.

Alderman Thibault answered I would.

Chairman Gatsas stated I would consider a mini-van a full-size.

Alderman O'Neil replied that is fine.

Chairman Gatsas addressed Item 8 of the agenda:

Communication from Jose Nieves, Owner of Awesome Gourmet advising that he is not in favor of allowing Terry Casey, Owner of Standing Room Only to operate as a hot dog vendor adjacent to his property located in the vicinity of City Hall Plaza.

Alderman Pariseau asked why was a license issued.

Clerk Bernier answered first of all he falls under a peddler's license and Lands & Buildings gave him permission to have his stand there and that is where he is supposed to go.

Alderman Thibault asked what kind of regulation and maybe we should look into this with the civic center coming...you may end up with 20 of these little carts out there unless we try to regulate it.

Alderman O'Neil answered there is a zone, isn't there.

Clerk Bernier stated this Committee has asked us to research that and that is what we are doing.

Alderman Hirschmann asked so this person is impacting Mr. Nieves' business by not paying rent and having a cart out here.

Clerk Bernier answered he has a peddler's license. What he is going to sell is different and they are 50 feet away.

Alderman Hirschmann asked is this the first one that has been allowed on City property.

Clerk Bernier answered no. We had somebody two years ago.

Alderman Pariseau asked was the guy who owned the Awesome Gourmet there.

Clerk Bernier answered I don't think so. It was a different owner.

Alderman Hirschmann asked isn't there something in the write-up of how those are handed out if the abutter opposes it they don't get the license.

Clerk Bernier answered they can't sell the same product and they have to be 50 feet away from another vendor or restaurant that sells the same product. That is the ordinance.

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

Chairman Gatsas addressed Item 9 of the agenda:

Communication from Attorney Douglas Wenners on behalf of Charley Pepper's Restaurant & Lounge requesting a hearing relative to the denial by the Police Department for an entertainment license for the 2000 Hawaiian Tropic International Model Search.

Alderman Thibault stated I would like to hear what the Deputy Chief's reasons are.

Deputy Chief Robinson stated I would like to start by going back and giving a small historical perspective for those Aldermen who haven't been involved in this before. Back prior to 1996, special entertainment licenses were issued by the State Liquor Commission. People would apply for this type of unusual entertainment and the Liquor Commission would be the ones to sign-off if they had the approval of the local Police Department. Shortly after 1995 and into 1996 that State law was changed and dropped and it was up to each individual municipality to set it up. Back then and this was back in 1996, the Coliseum NightClub held one of these contests, which came to our attention. At that time, we went and looked at it. We wanted to know why they were doing this and when we checked with the State Liquor Commission that was the first time we found out that the State law had been abandoned and voided and that it was up to the municipality to do something. We had many meetings with the City and back in 1996, December 3, 1996, there were two laws put into place. One was nudity in public places selling alcohol and the second was unusual entertainment. That was because we had about a year's time when several of the nightclubs in Manchester were holding unusual entertainment and we didn't have those covered. Back in 1993,

there was a letter sent to the...if you can just pass these around...Liquor Commission, which basically states that and I would like to read this into the record. It is addressed to Chairman Gatsas, Chairman of the Administration/Information Systems Committee:

Dear Mr. Gatsas:

Since 1993, the Police Commission has taken the position to withhold approval of all special entertainment requests involving male and female reviews, exotic dances, and contests involving audience participation (swimsuit contests, wet T-shirt contests, hot-leg contests, best-body contests, hard-body contests, toga parties, etc.). It was and still is felt that events like this tend to create behavior that is difficult to manage; there certainly is a propensity for abuse with the end result being overexposure and/or contact with the audience.

Historically, establishment in the City of Manchester have, for the most part, accepted the denial of these permits. This acceptance, in my opinion, is based on the denial of all permits for such events as listed above, thereby giving a "level playing field" to all businesses.

This date, a telephone poll of the Police Commission reaffirmed the Commission's position that these types of licenses should be withheld. We would ask that your committee uphold this standard set for our community.

Sincerely,

S/Mark L. Driscoll
Chief of Police

Deputy Chief Robinson stated I would like to further just give a historical perspective. The United States Supreme Court, in one of their landmark decisions, said that each municipality has a right to set its own standards for these types of events and that is why the State law was changed to allow each individual community to come up with their own standards. The ordinances that you have in front of you set those standards. We believe those standards are good. We think that they are still there. This is the direction...I have been in front of this Committee several times in the last three or four years with similar requests and each time this Committee has turned those requests down from swimsuit contests to a Jell wrestling to hard-body contests. We have, over the last couple of years, come across different establishments that have held contests...Charley Pepper's was one and they had a contest not that long ago that we were made aware of. We notified him that it was in violation of the City ordinance and he immediately

stopped. We have also notified some others. This Committee did, on one occasion within the last year or year and a half, approve a negligee...help me out here Aldermen.

Alderman O'Neil stated I didn't go to it. It was a negligee show of some kind.

Deputy Chief Robinson relied it was held at the Stark Mill Brewery. They came in front of this Committee and said this was going to be a black tie event with wives and it was going to be done at halftime. Nothing like that took place that evening and I told some of the members that. It wasn't a black tie event. It was mainly men. There was a lot of yelling and screaming going on and, in fact, they had their negligee show but it was nothing like we were led to believe.

Alderman O'Neil stated, Deputy, if that was the case we should have known because this is the first time...I remember approving it and we never had any discussion about what actually took place. I never heard a complaint.

Deputy Chief Robinson replied I am not going to tell you that I told you but my memory serves me that I did come back and tell the Committee but not in an official capacity. The other thing that I would pass out to you is the Hawaiian Tropic...

Chairman Gatsas interjected don't pass that out. That is not going to help your case.

Alderman O'Neil stated if there was a problem, I would have liked to have known it. If establishments do not live up to the agreements that they make with the City and to be honest with you this is the first time that I have heard there was a problem.

Mr. Trimble, owner of Charley Pepper's stated in reference to the contest that Deputy Chief Robinson said they shut down, that was a silhouette dancing contest. People would dance behind a screen and an image was projected onto the screen. We did not see anything in the ordinance about that so we did it and they came in and asked us to shut it down.

Deputy Chief Robinson stated it came under the unusual entertainment section.

Atty. Wenners stated you probably don't want to hear a lot from me about what this is going to involve so I tried to put the details about the event into the memorandum and I apologize for the timeliness or untimeliness of my submissions. I just thought it would save all of the Aldermen some time considering the facts. Joe Trimble and I appreciate the Police position in terms of

trying to monitor the types of events that are held in some of these establishments. I think he would be remiss in his duties if he didn't give a lot of scrutiny but with all due respect to Deputy Robinson I think there has been a misunderstanding of the facts and a misapplication of the ordinance at issue here. This event is not going to involve in any respect nudity by any of the contestants. For all we know, although there probably will be contestants who wear bikinis, there may not be any. This is a contest. This is a model contest. The purpose of the contest is to try to identify candidates that can go on to a national and then international model search. There is no audience participation in this. There is going to be an independent panel of three judges who are going to pre-screen the applicants and then judge them on the basis of beauty, but also on the basis of an interview. Part of the beauty contest does involve a swimsuit component. Joe Trimble has agreed with the Police, some time ago, to have Police details in his place and it is our expectation and in fact we will insist upon Police detail during this event. To the extent that Chief Driscoll is saying that this event would be difficult to manage, I submit to the Committee members that not only will there be a Police detail, but there will be a company, which is basically a spin-off of Miss Hawaiian Tropic International Contest that is basically going to administer the contest on behalf of Charley Pepper's. Joe and I are very agreeable to any reasonable restrictions on the event itself. We understand the concerns that are raised by the Police Department and we are willing to address them. If, for example, the Committee Members want to impose a restriction on thongs for example we are agreeable to that. If the Committee members want to propose a restriction that would basically say that the event would terminate in the event of nudity or the event would terminate in the event of a rise in the incidence of criminal violations associated with the event, we would be agreeable to that. All Joe and Charley Pepper's want to do is hold a respectable event. He has been agreeable in the past. He has tried to work diligently and forthrightly with the Police Department. He wants to make this a success. He doesn't want any trouble. He is at Charley Pepper's for the long-term and if there were trouble with this event it would jeopardize his position at Charley Pepper's.

Alderman O'Neil asked were any of these suggestions made to the Police Department through informal discussions.

Atty. Wenners answered yes. To be honest with you, the discussion didn't get that far because it was conveyed to me that the Police Department was taking the position that any event involving a swimsuit no matter how it is characterized or what it actually involved, any request for authority to hold that type of event would be denied.

Alderman O'Neil stated we saw this brought before us two weeks ago and I thought of this as less of a risk than the thing we approved a year ago in the Millyard and I am disappointed to hear that they didn't live up to their agreement.

Deputy Chief Robinson replied our fear, Alderman, is opening a door. Anything that has been considered a skin show we have just been against in liquor establishments. I noticed in the correspondence he passed out that there were two things there that I would like to comment on. One was the Derryfield. I know of no such show going on at the Derryfield and I was made aware of that in the last couple of days and did check. I don't know of them holding anything. The second thing they talked about, Old Orchard Beach with the Chamber of Commerce, if somebody was to do something similar to the NH Pageant we wouldn't be sitting here right now but we are talking about any liquor establishment and that is what our concerns are where people are drinking and trying to have a good time and then you have these types of contests. Historically, we, again, this Board here, the Police Commission...you set what the standards are and we follow them. Our standards have always been when it comes to skin shows and if you just review the law, which is 130.12 Exotic and Unusual Entertainment, it says right in there under Purpose and Intent, "it is declared to be the purpose and intent of this section to protect the public health, safety, welfare and morals of the community to promote the stability of property values , and impose restrictions upon these activities which pander to gross sexuality in a manner that would detract from the neighborhood, adversely affect the property values, increase crime and violence and be repugnant to the morals of the community. In recognition of the protection afforded to the citizens under the First and Fourteenth Amendments, it is not the intent of this section to inhibit freedom of speech or the press, but rather to deter those of low morals from imposing their lack of morals upon the rest of the community; and further recognizing that those parts of the community, which become center of loose moral conduct, frequently become places of rowdiness, criminality and indecent behavior. It is further the belief that just as advertising is designed to stimulate one's appetite for desiring goods or a service, an over-abundance or preoccupation with sexual displays or materials arouse the appetites of those so preoccupied and encourages violations of the criminal statutes involving sexual offenses." This is what was passed by the Board. That is the direction we were given and we are fearful of opening the door.

Chairman Gatsas asked, Atty. Wenners, your memorandum states that this was held at the Derryfield. Do you know that for a fact or is that your understanding?

Atty. Wenners answered I wasn't there and I don't know from first hand observation whether or not it was held. What I do know is I spoke with the CEO of Miss Hawaiian Tropic International who told me we held a very successful event at the Derryfield and he referred to his records two years ago on a Saturday afternoon during the summer on the deck.

Chairman Gatsas replied I find it absolutely...I guess I would find it incredible to believe that it would have gone on one Saturday afternoon because either the firemen across the street or some police officer would have known that something was going on and any fire in the south end of Manchester would have never successfully been put out. I question whether that was happening on the deck outside. Now whether it was inside, I don't know.

Deputy Chief Robinson stated I got the correspondence that was sent to Charley Pepper's. This was sent to them and he did give me a copy of it. On the very last page it says please keep in mind and this was the correspondence sent for this particular one that accompanied his application..."please keep in mind that we ran a very successful program approximately three years ago in Manchester, New Hampshire at the Coliseum, which was very successful and we actually spoke with the Manchester Police about the model search and presented them with the material they had requested. If you have any questions, please don't hesitate to call." Now that is the correspondence that I got from Charley Pepper's. It never talked about the Derryfield and I have acknowledged that they did do something at the Coliseum and that was when we had no ordinances in effect. That was when we were in between.

Alderman Pariseau moved to uphold the decision of the Police Department. Chairman Gatsas duly seconded the motion.

Alderman O'Neil asked can we have some further discussion on this. This is my third year on the Administration Committee and we have had disagreements with the Police Department. I think we all respect them and for the most part it hasn't come back in our face, although I am disappointed to hear about the situation that Deputy Chief Robinson mentioned earlier. I don't know if it would hurt to try one of these. Your request is actually for several of these, isn't it.

Atty. Wenners answered correct. Our request is for several, but we are agreeable and Mr. Trimble is about to invest a lot of money into the promotion of this event and he is willing to risk the money he is about to invest by saying that if there is a problem with this event and if this Committee wants to impose a restriction or requirement as to the types of things that could happen, which would justify revoking the authority to do it, he is willing to agree to that.

Chairman Gatsas asked how many dates is he looking for.

Atty. Wenners answered 12.

Mr. Trimble replied it would be 10 now.

Atty. Wenners stated on the original application it was 12.

Chairman Gatsas asked what are the dates. Are there specific dates?

Atty. Wenners answered 6/8, 6/15, 6/22, 6/29, 7/6, 7/13, 7/20, 7/27, 8/3, 8/10, 8/17 and 8/24.

Alderman O'Neil asked what nights are those dates.

Atty. Wenners answered Thursday night.

Alderman O'Neil asked when would the next one be.

Atty. Wenners answered 6/29.

Alderman Thibault asked is this a restrictive clientele that would be coming to this or just your normal customers.

Atty. Wenners answered it would be the normal clientele but the candidates for the model search are assigned ahead of time.

Mr. Trimble stated the models have to sign-up ahead of time. If I can just comment, what it would consist of also is the swimsuit portion...no dancing is allowed, no other type of lewd or ludicrous behavior is allowed. They come out in a bathing suit and do a runway style walk and that is it. They are not allowed to dance or take anything off.

Chairman Gatsas stated let's all be fair so that this Committee understands because I have watched the finals in Las Vegas and Tropicana is not Tropicana drink. At no point did I see any woman doing any talent or evening gown wear. The only time you see them is in a bathing suit at all times. Basically what you are doing is looking to enhance the summer activity and I am not opposed to any business person making money when they are looking to venture, but I don't think that...obviously as soon as that is proposed there are going to be 50 other applications coming in here for Dan O'Neil's Swimsuit Contest. If it was a one night shot then maybe the Chief and Deputy might be a little more receptive, but I

don't think it should be a precedent that you would want to do that 10 times during the summer.

Alderman Thibault stated the interesting thing about that is when we did do the thing at Stark Mill Brewery we never got any other requests for anything like that again.

Chairman Gatsas replied obviously the Stark Mill Brewery thing was an appeal.

Deputy Chief Robinson stated I have turned down Chippendale's lately and I have turned this down at one other establishment already.

Chairman Gatsas asked so this is an appeal of the denial by the Police.

Atty. Wenners answered the only observation I have is that it is a 10-week contest and at the end of the 10-weeks only the contestants that have won in the 10 weeks come to the finals. One of them will go to Las Vegas to compete in the national competition, which is why it is set over a number of weeks. It is not just so every week they can go out and parade in a bikini. You win. That is why they do it over a number of weeks.

Alderman O'Neil asked are we being fair to you then if we only approve this for one night.

Mr. Trimble answered it wouldn't go off if it were only approved for one night.

Alderman O'Neil asked so in fairness you are looking for approval of 10 of these events. You have to put, if I understood, a commitment in this thing.

Mr. Trimble answered I have to commit to Hawaiian Tropic a minimum of 10 weeks and it costs me \$325 a week just for the right to do the event.

Atty. Wenners stated I misunderstood you then, Alderman. I thought you meant conditional approval meaning that if the first event was held without incident then they would have approval for either the balance of the weeks or a specified number of weeks.

Alderman O'Neil stated my concern is if for some reason in the eyes of the Police Department or the Administration Committee there was a problem with that one event then he would be out the money and we would rescind the license and is that really fair to him.

Atty. Wenners replied I guess that is Mr. Trimble's decision to make but I think that if the Committee was willing to grant conditional approval for one and one went off without incident and Joe is willing to take all necessary steps to assure that, then I don't see...there is some risk obviously to Joe but I think it is in his eyes. Maybe you want to comment on that Joe.

Alderman O'Neil asked would you be willing to take the risk on one that you can deliver a very high standard that night and...do you have to invest \$3,000.

Mr. Trimble answered I have to give them \$3,250 up front.

Chief Driscoll stated this is about one thing and this is about bringing in a group to attract more people to come to a certain location to buy alcohol. We, for a long time as the Committee knows, oppose and try to maintain like Deputy Robinson said a level playing field. Many, many club owners have told me that they are willing to work with us in that regard as long as no one receives an unfair advantage that allows them to keep escalating what will attract this crowd. That is what we are concerned about. We have been very successful so far in doing that. With all of the good things that are going on downtown...the businesses are doing fine as they are, everybody has equal opportunity to run a real good establishment without skin, without...you know when he was talking about thongs, nobody has defined what a bathing suit is and it keeps getting smaller and smaller and before you know it the whole thing is wide open. I would encourage this Committee to look very carefully at opening that door even a crack.

Alderman Thibault asked what kind of detail policeman are we talking about. What is the normal...?

Chief Driscoll answered quite frankly it doesn't matter because where is that fine line. At what point does the policeman say you can't do this anymore and shut the show down? We can put six policemen there or a Captain there. If you look at that book, that is a book that I picked up in 1995 over at the Coliseum that shows topless girls.

Atty. Wenners stated that is an unfair comment in my opinion only because these events are held at different places throughout the country and in some of those places that may be legal. We acknowledge that is not legal here and we have absolutely no intention of having a topless event. I really truly do not want to make a legal issue out of this at all, but I think the ordinance at issue here is being misapplied. This is a restriction on exotic or unusual entertainment. It makes criminal holding an event that constitutes exotic or unusual entertainment and that is not defined in the ordinance. Two examples are given and one of those

examples is relied on by the Police Department. The first one is male and female exotic dancers, which I think we can all agree this is not one and contests involving audience participation such as swimsuit contests, wet T-shirt contests, hot-legs contests, best body contests, hard-body contests, tattoo contests and toga parties. There is no audience participation involved in this. This is a contest that is going to be judged by three independent individuals. It doesn't fall within the scope of the Statute. It is not our intention to make a legal issue out of this. All we are really asking is that the Committee consider that Mr. Trimble wants to hold an event that is going to involve a bathing suit component and he is trying to comply to the greatest extent of the law as he can and he is trying to be reasonable about it. I don't think this is a situation, with all due respect to the Police Department, that is going to create a situation where there are criminal offenses related to sexual conduct. This is not that type of event.

Alderman Thibault asked how about if it was restricted to full bathing suites rather than bikinis. That would lessen the problem. A regular, one-piece bathing suit.

Chief Driscoll answered some of the bathing suits you see at the beach are...

Alderman Thibault interjected not quite full or over full.

Chairman Gatsas stated I would assume that the picture on front page of The Union Leader on Sunday would be constituted as a bathing suit. Am I correct? You couldn't get much closer to full nudity than that. I think that we have seen in the newspaper this week the retraction and the letters to the editor about what people felt about just looking at that picture never mind what the repercussions would be. I am looking at this here and seeing the similar bathing suit in the magazine.

Atty. Wenners replied again if you said we were restricted to no thong type bathing suits that would make it a little bit more...

Alderman O'Neil asked, Mr. Trimble or Atty. Wenners, I would have to believe that Hawaiian Tropic has run into similar concerns in other communities and that Manchester isn't the first place that has shown some concern with this. Are you aware of any conditions they may have agreed to or the owners of the establishments hosting have agreed to in some other communities?

Mr. Trimble answered no but what they do to make sure that there is nothing that happens outside the boundary of what is supposed to happen is they have an event coordinator there that says look this is the kind of bathing suit you can wear and this is what you can and can't do when you go out there. You can't dance, you can't go out and sit on someone's lap. They are not going to do anything lewd whatsoever.

Atty. Wenners replied I guess, Alderman O'Neil, that is also a response to the Chief's comments before and to Chairman Gatsas' comments that there might be a bunch of requests that follow the granting of permission for this particular event but the thing that distinguishes this one from other proposed events or contemplated events would be that there is somebody here on site to manage this thing. I think that is a feature that really distinguishes this and really justifies giving it approval because unless those other events and those bars or establishments willing to conduct those events are willing to have that type of authority and administration component...

Chairman Gatsas interjected let's not go down that road because if you were coming in here some time representing one of those people and we didn't issue you a permit you would be all over us and threatening us with legal action so let's not go there. Am I right or am I wrong?

Atty. Wenners replied you are right.

Chairman Gatsas stated so let's leave that alone.

Alderman O'Neil asked what is the normal coverage charge on a Thursday night or is there one.

Mr. Trimble answered for this event we wouldn't have one.

Alderman O'Neil asked do you normally have a cover charge.

Mr. Trimble answered yes we do on Thursdays. It is ladies night so women don't pay and men pay \$5. We are changing that.

Alderman O'Neil asked and there would be no cover charge.

Mr. Trimble answered that is correct.

Alderman O'Neil asked and you would continue to serve food throughout the evening.

Mr. Trimble answered our kitchen is open until 11 PM.

Alderman Hirschmann asked the capacity of your establishment is 300 people. How many people are allowed in there?

Mr. Trimble answered 448.

Deputy Chief Robinson stated that is not in one section. Different rooms have different capacity and that is something that we have a problem with in a lot of the establishments. I don't mean to go into that here, but they have a particular room where they are allowed say 100 people but there is no way of controlling that. You may have 300 or 400 people shoved into one room. Having this in just one location they may be limited to 175, but I can assure you that if you have these ladies walking down the runway you are probably going to have a lot of people standing around.

Alderman Hirschmann asked how do you regulate how many people come in because everyone in town is going to want to see this show.

Alderman Pariseau stated he said it was for his normal clientele.

Alderman Hirschmann replied well he is going to advertise this and people are going to want to see it.

Alderman Pariseau asked how many people do you normally have on Thursday night.

Mr. Trimble answered maybe 100-200 people.

Alderman Pariseau asked and you don't expect an increase.

Mr. Trimble answered that is the whole reason I am doing this thing. I want to have an increase.

Alderman Pariseau stated you made the statement that you didn't anticipate more people.

Mr. Trimble replied I never stated that.

Alderman Hirschmann stated I always see a line out there. When I drive buy I see a line out there so I think he is doing great.

Atty. Wenners replied he does a good business.

Alderman Hirschmann stated I am not opposed to this myself because I am a young person. This isn't anything out of the ordinary but what I wouldn't like to see is next week another type of group come in here that wants to have their Chippendales or their non-heterosexual show or some weird thing. That is my only comment.

Deputy Solicitor Arnold stated if someone else applies, the Police Department would go through the whole procedure of evaluating what type of entertainment is allowed.

Chairman Gatsas replied I understand the procedure. If we deny them a permit because it is going to be the Chiquita Banana Swimsuit Contest, what is the position of the City then?

Deputy Solicitor Arnold responded I am not sure what you are asking. If you are asking will the City Solicitor's Office stand behind that decision, sure we will.

Deputy Chief Robinson asked are you talking about if we approve this one and deny the next one. Is that what you are asking?

Chairman Gatsas answered yes.

Deputy Solicitor Arnold stated to a certain extent it would establish precedent that other attorneys would point to. In return, the Committee could also, if approved tonight and I am not offering comment one way or the other, say we looked at it and there were conditions or restrictions on this event that we felt differentiated it.

Chairman Gatsas asked Deputy Chief Robinson if a private club like Sweeney Post wanted to have a bathing suit contest, do they have to come to you for a permit.

Deputy Chief Robinson answered you have me on that one. I have never known them to come to us or talk to us about any such thing and we really don't have much regulation over the private clubs. They are pretty well controlled by the State Liquor Commission.

Chief Driscoll stated I can answer that. It is my because it is not open to the public that they don't need a license. It is a private club. There is a note there when those ordinances were drafted I asked that question and I think Tom Arnold answered it.

Deputy Solicitor Arnold replied I would concur that if it is a private club, not open to the public, they don't need a permit.

Alderman Thibault stated I know they have had things similar that before and guests are invited also. It is not just members. Members and guests. They have to be signed-in if you will.

Atty. Wenners stated that raises an important point. There aren't a whole heck of a lot of businesses that fall within the Police Department's authority to regulate. If we are worried about a whole bunch of businesses now coming forward and saying can we have this event, it is really limited to those businesses which can be regulated by the Police Department.

Chairman Gatsas replied that is every restaurant and lounge in the City.

Atty. Wenners responded some of them we can just rule out because of the nature of the business. The Backroom and places like that. A lot of them are private clubs.

Chairman Gatsas stated I always find it hard to believe that if a line was from Bridge Street to Salmon Street that the Black Brimmer wouldn't be in here the following week looking for a permit.

Alderman O'Neil stated I wouldn't mind putting in something...the concern I have is that Mr. Trimble has to make a \$3,000 investment here and certainly one of the conditions absolutely positively that I would want to see is we have the right to rescind the action at any time and there is a lot of pressure on him to make it work.

Alderman Thibault replied he would have to make sure that it works.

Alderman O'Neil stated we don't want him to be out \$3,000.

Chairman Gatsas replied I hear what you are saying but there is only one problem. At whose discretion is it going to be rescinded? The Police Department or does it have to come back to this Committee and by the time it comes back to this Committee the summer is over and they have their 10 events. If you want to leave it at the discretion of the Police, I don't know if we want to do that.

Alderman Thibault stated as long as it follows the law the way it is written. If they see anything that is not in there that is happening, then they can close it down. If anything else but what we were told happens, they can close it down.

Chief Driscoll asked can somebody define for me a bathing suit and somebody define for me nudity.

Alderman O'Neil answered we went through that whole issue with the lingerie thing.

Deputy Chief Robinson replied it is defined in the ordinance. It says "Nudity. The showing of the human male or female genitals, pubic hair or buttocks with less fully opaque covering" which is something we need to talk about, "the showing of the female breast with less than fully opaque covering or any part of the nipples or the showing of the male genitals in a discernibly turgid state." One of the things that they had to do down at the Stark Mill Brewery is each one of these ladies basically had to wear a body suit in order to wear the negligees. In my opinion, and I showed it to the Solicitor, if you were to approve this then anybody wearing a bikini to me would have to wear a body suit because if any part of the breast can be seen, it has to have that opaque covering. The opaque covering is basically a skin colored type of suit.

Alderman Hirschmann asked a full body suit.

Deputy Chief Robinson answered well those parts of the body that would be covered here. I would leave it up to the Solicitor. Our big fear is opening a door. There is no question in my mind and we have received phone calls from other clubs that if we approve this I am going to end up with more applications and then I have to make a decision as to whether I bring these applications back in front of you and let you handle each one of these. We have been put on notice on how to do it in the past. The Police Commission took a vote telling us how to do it. They set the community standards and we are following the community standards. If you wish to change those standards, I just need some direction as to how you want to change them otherwise you may be looking at one of these every time someone comes in with something.

Atty. Wenners replied I understand but respectfully, Deputy, I don't think that the Police Department can demonstrate an increase in the number of applications they received since the filing of this one and I think that one of the Alderman's points before about the negligee event is well taken, which is that permission was granted for the negligee event and the City did not see any demonstrable increase in the amount of applications for similar events.

Deputy Chief Driscoll responded I turn down applications on a monthly and weekly basis, Sir.

Atty. Wenners replied but if the concern is that these events will be held and there will be a precedent for them and attorneys will be knocking down the door saying let's hold them...

Chairman Gatsas asked Alderman O'Neil with the body suits, is that what you passed here.

Alderman Thibault answered yes. I am sure it was with body suits.

Alderman O'Neil stated that would kill the whole thing, wouldn't it.

Deputy Chief Robinson asked could the City Solicitor respond to that part of it and if they would have to wear something if you did approve this because the ordinance is the ordinance. You can approve it or disapprove it, but I think the opaque covering still has to be there. That is part of the ordinance.

Mr. Trimble answered probably part of the reason they needed body suits on with the negligees was because those are see-through and you can see parts of the female anatomy through them. A bathing suit covers everything.

Chairman Gatsas asked, Chief, would you have a problem if the bathing suit contest was the same bathing suit that they had to wear in the Miss America contest or Miss USA contest.

Chief Driscoll answered that was one of my questions. What is a bathing suit?

Chairman Gatsas stated if you watch the Miss New Hampshire Pageant, would you be opposed to that sort of bathing suit.

Chief Driscoll replied no. Like Alderman Thibault said, if it were a full bathing suit and complied with the ordinance...

Chairman Gatsas interjected no; I am not going with the opaque. I am saying to you bathing suits like we see on TV for Miss America. Would you be opposed to that?

Chief Driscoll replied I am not sure what they are, Sir.

Chairman Gatsas responded they are a one-piece bathing suit. Are you opposed to that?

Alderman Hirschmann stated that is pretty conservative.

Alderman Thibault replied but there will be a level playing field for everyone there.

Chief Driscoll responded I would have to see it, Sir.

Mr. Trimble stated I think the distinction between a bikini contest where a song comes on with someone scantily clad who tries to entice the crowd with dancing and so forth versus this with models who are going to be going to a national contest that has a reputable name and is sponsored by a national organization where the ultimate goal is to get a modeling contract I think is the difference.

Chairman Gatsas replied I have watched that contest and it is an excellent contest to watch, but it is not something that you would call...it is not necessarily the most intelligent or the most responsive girl winning that contest.

Mr. Trimble responded I agree.

Alderman Thibault stated would you, Chief, be okay with a bathing suit similar to this (a picture in the book). Do you want to look at the red bathing suit on the top of the page?

Alderman O'Neil asked do you have any response on that, Mr. Trimble.

Mr. Trimble answered I would have to consult with Hawaiian Tropic in terms of whether or not they think that would be sufficient.

Chairman Gatsas stated I have seen young ladies in Las Vegas with the same suit that was on the front page of The Union Leader.

Alderman O'Neil stated, Mr. Trimble, if that type of bathing suit was agreeable to Hawaiian Tropic and you allowed us to leave open the right to rescind it, I mean you could theoretically be out \$3,000.

Mr. Trimble replied I could also try and negotiate something with Hawaiian Tropic saying that if it is rescinded I can get my money back.

Atty. Wenners responded I would think they would because if they are taking responsibility for running this thing and counseling the contestants, I would think they would.

Alderman O'Neil asked is it a compromise for you at all.

Mr. Trimble answered it would be better than you denying the appeal.

Chairman Gatsas stated there is a motion on the floor to uphold the decision of the Police Department. Is there a second?

Clerk Bernier replied you seconded it.

Alderman O'Neil asked, Deputy and Chief, based on what was pointed out in that picture, would there be a problem.

Chief Driscoll answered yes I think there would be a problem. I think this Committee would be making a grave mistake if they authorize one location to enter into this type of contest. I think that we will open doors that have never been opened before and I think it will lead to problems.

Alderman O'Neil stated I wish I could think of exact examples. I know there have been times before that we have been pretty clear that we have been approving this site and only this site, not for this specific issue, but for other issues. There was talk when we did the hot dog vendor at the Black Brimmer one time.

Chief Driscoll replied it is very difficult to say yes to somebody and then say no to somebody else.

Alderman O'Neil stated we have done it before. We have been very specific that it was only this one site and as far as I know we have never been challenged on that. I am just saying that there has been a precedent set that we have been site specific and that is just one. There might be others if I went back and researched issues that have come before us before.

Chief Driscoll answered there is little to be gained by approving this permit because it is my belief that everybody operates on a level playing field now. If people want to go to the Brimmer, they go to the Brimmer. If people want to go over on the West Side, they go over on the West Side. If they want to go to Charley Pepper's then fine, go to Charley Pepper's. If one person takes that step and you allow that to happen, I believe you are going to see an escalation and before long you are going to see pictures in the windows downtown saying this is what I am offering and I just think it is a mistake.

Alderman Hirschmann replied we can't have pictures in the windows. That is one stipulation.

Clerk Bernier stated you have five minutes before the next meeting and you have another subject to address.

Alderman Hirschmann stated I think this is pretty conservative. I don't think it is a morality problem. If you have the right amount of people who are supposed to be in the establishment and the one piece bathing suit and they are not all juiced up with oil on them and there are no thongs, no body oil, no posters in the window we can have a respectable thing and try it once.

Alderman Thibault stated if anybody else wants a permit like that, they would have to have the same restrictions. They would have to have full bathing suits also.

Alderman O'Neil asked is it agreeable that if there is any nudity or any criminal violations that the license will be revoked.

Atty. Wenners answered I agree with that 100%, Alderman O'Neil, except that I don't like...my one concern with that is arbitrary enforcement of the condition. In other words, if there was something that was going to happen anyway at Charley Pepper's, at the Brimmer, at the Irish Rover that would have happened had any event not been held, I just don't want the license revoked on that basis.

Alderman O'Neil asked you are saying, for instance, it is not uncommon that there might be a scuffle or something like that where somebody might get arrested.

Atty. Wenners answered exactly, something that would have happened anyway. As long as there is not arbitrary enforcement of that.

Alderman Hirschmann asked are you going to have bouncers.

Mr. Trimble answered yes and police detail.

Alderman Hirschmann stated I am willing to try it.

Alderman Pariseau replied you are making a mistake.

Alderman Hirschmann responded just like we didn't want to have alcohol in Singer Park and that worked, didn't it.

Alderman O'Neil asked, Mr. Trimble, are you willing to take the risk on this. That you could invest over \$3,000 and only have one event.

Mr. Trimble answered if it is approved with those conditions I will go back to Hawaiian Tropic and try to negotiate the best contract I can.

Alderman O'Neil asked and you are okay with the bathing suit example that was used in the book.

Mr. Trimble answered if I go to the Hawaiian Tropic people and say this and this and it has to be a full bathing suit and they say look you know it is just not going to be worthwhile to do it, then obviously I am not going to do it.

Chairman Gatsas called for a vote on the motion to uphold the Police denial. The motion failed with Aldermen O'Neil, Thibault and Hirschmann being duly recorded in opposition.

Alderman Thibault moved to approve the issuance of an entertainment license with the condition that a one-piece bathing suit only be used, and that nudity not be allowed. Alderman O'Neil duly seconded the motion.

Chief Driscoll stated those conditions will be worked out between Atty. Wenners and Deputy Chief Robinson.

Mr. Trimble asked about the bathing suit. Are we going to say it is a one-piece bathing suit or does it have to be exactly that bathing suit?

Alderman Thibault answered no, as long as it is a full bathing suit.

Alderman Hirschmann stated a one piece with a behind on it.

Chairman Gatsas asked once you get the conditions in writing, do you want a voice vote and run by this Committee or not.

Alderman O'Neil answered I hope both individuals are clear on what we are looking for. Would it be fair, obviously there is going to be a police officer on duty there anyway and we are kind of laying...should somebody like Matt be there as well. I am just saying so this thing doesn't come down and say the Police Department was out on a grudge on this thing or something that there be...

Clerk Bernier interjected he would volunteer.

Chief Driscoll stated in regards to Alderman O'Neil's comments, you can be sure that the Police Department would never...I mean fair is fair.

Alderman O'Neil replied I just don't want somebody throwing it back in the Police Department's face saying they had a grudge on this thing.

Chief Driscoll responded we would have to come forward with specific allegations.

Alderman O'Neil asked so you don't believe you need Matt who does license enforcement for the City there.

Chief Driscoll answered no. That is the business we are in.

Alderman Hirschmann asked we are trying this once right.

Chairman Gatsas stated I am not going to make that statement, Alderman, because if this works and three weeks from now somebody else comes in and says we would like to do this and use the same criteria that has been enhanced and they haven't had a problem...

Alderman Hirschmann replied we wouldn't even hear about it.

Chairman Gatsas stated well he is probably going to deny it and send it back to this Committee.

Alderman Hirschmann stated we should write down the criteria so that we remember.

Chairman Gatsas stated maybe we should take a picture of the bathing suit and to help the appeal process you might want to give people who make requests the conditions that we worked out here. I am certainly not going to be in favor of doing it on any less criteria than what we just settled on tonight.

Alderman Thibault stated maybe once they arrive at the conditions we should all get a copy of it.

Alderman O'Neil replied one of the conditions is that the City reserves the right...I guess it would be the Police Department or who reserves the right to pull the license. The Police Department or the Clerk's Office?

Chief Driscoll responded the Police.

Alderman Hirschmann stated the only other thing is if you are posting things in the windows Rich Davis is going to come down with his sign ordinance and start yelling.

Mr. Trimble asked you mean pictures and things. I think the only advertising we are going to do is a banner or something that says Hawaiian Tropic Model Search. There are no pictures of anyone.

Chairman Gatsas called for a vote on the motion. The motion carried with Alderman Pariseau being duly recorded in opposition.

TABLED ITEM

10. Item 7 (Formalize Administrative Regulations) and Item 8 (Revise Finance Policy and Procedures Manual) of Melanson Heath & Company Management Letter dated 1/11/00 referred to Committee by Board of Mayor and Aldermen.
(Tabled 3/21/00 pending submittal of revised Policy and Procedures Manual.)

This item remained on the table.

11. Communication from Alderman Hirschmann requesting the Board adopt a new policy mandating that before any construction project passes through the Finance Committee the Board is made aware (in writing) of any fiscal impacts to future budgets.
(Note: draft form submitted by the Finance Officer.)
(Tabled 5/16/00)

This item remained on the table.

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

A True Record. Attest.

Clerk of Committee