

## CONTINUATION OF AUGUST 27 ADMINISTRATION MEETING

**August 28, 2001**

**4:30 P.M.**

Chairman Gatsas called the meeting back to order.

The Clerk called the roll.

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

Absent: Alderman Thibault

Chairman Gatsas recessed the meeting to meet with legal counsel.

Chairman Gatsas called the meeting back to order. After considerable discussion with the City Solicitor and looking at the merits of the case, this Committee has decided that with some stipulations that certainly should have come much sooner than at this point by the promoters... obviously I think that for anybody to sit there and say that there were inflammatory remarks that were made is to say the least and I think that at some point we are trying to work in good faith with the promoter. We are looking to put some conditions that we believe the promoter has agreed to and we will have the City Clerk read those conditions.

Deputy Clerk Normand stated the concert will be held on Saturday, September 15 with a curfew of 10 PM and there will be no rain date. There will be a \$2,000 civil penalty for violation of that curfew for every 15 minutes. Sound limitation will be 100 decibels measured at 100 feet from the stage. This sound will be measured from the sound coming from the sound system. The applicant agrees to reimburse the City for an independent sound engineer to measure sound levels at the concert. In the event that there is an excess level spanning 5 seconds, the sound manager will make adjustments upon notice. Subsequent excess levels shall be subject to civil penalties to be paid by the applicant. The first time would be \$2,000, second time would be \$3,000 and the third time would be \$5,000 and all subsequent violations. The applicant further agrees to adjust speakers to limit sound as best that can be determined. Applicant agrees to work with the City on all future plans. Finally, the applicant will agree to indemnify the City for any claims arising from this event.

On motion of Alderman Pariseau, duly seconded by Alderman O'Neil, it was voted to approve the conditions as stated by Deputy Clerk Normand.

Alderman O'Neil stated I just want to echo your earlier comments, Mr. Chairman, that it is unfortunate that we are here today on August 28 to discuss this issue. This should have been worked on the day after the concert on July 22. I feel in some ways we have been putting a gun to the promoter's head and I think there has been a gun put to our head. I feel bad that the Police Department was put in the position that they were put in on this. They never should have been put in that position and I hold the promoters accountable for that. I think it is unfortunate that even the band, themselves, were dragged into the middle of this because I don't think that was fair. Unfortunately for Godsmack, they were in the wrong place at the wrong time and I think that is unfortunate. Again, I hold the promoters accountable for that. I hope the comments made in yesterday's paper were sincere. They admitted they made a mistake with the past concert and I hope that if we do business in the future we won't see that type of behavior at the venue. It bothers me when I have to vote not in support of the Police Department but I think it is in the best interest of the City to move forward to avoid going to court and not knowing what the outcome of those court findings would be. I hope the promoter understands that. Thank you.

Alderman Hirschmann stated I just want the public to understand that the conditions placed on the permit by the City fathers will change the venue to make it a positive experience for everyone. The neighborhoods should not suffer undue noise. The promoters have agreed to many conditions and stipulations that will make the venue acceptable. The Police will work hand in hand with the promoter and I think that Manchester is in for some positive concert experiences in the future and I think that the promoters and the City fathers have done a good job with the best interest of the people at heart here and I want everyone to understand that we would like conditions on future concerts as well.

Alderman Pariseau stated I think after the many phone calls that we all received and the discussions that we had with the promoter and the City Solicitor's office we did the right thing for the citizens of Manchester. I, too, regret it if people are going to look at it as being against the Police Department. That is not the circumstance. I voted the way I did for the citizens of Manchester and not against anybody. Thank you.

Chairman Gatsas stated in conclusion I would tell any promoters and the promoters that are here that they should do their homework and understand what the City of Manchester is looking for and what kind of concert venues they bring in the future. I think it is important that they take those ideas and the community in hand before they make those decisions. Again, I think that with the merits of the case, the stipulations that were agreed to by this Committee and the promoters certainly will allow them to go forward and put enough stipulations in there to protect the citizens of Manchester.

Alderman Vaillancourt asked did I understand that one of the stipulations is that somebody would be there sitting at a volume controlled deck and if it ever exceeds 100 the decibel level will be turned down. Is that what I understood?

Chairman Gatsas replied I believe that is part of the understanding that we had. We will have a sound engineer on-site and if the decibel level reaches 100 they will be told at the stage level so they can turn it down. The first time will be a \$2,500 fine. If we need to notify them a second time, it is a \$3,500 fine. If we need to notify them a third time it is \$5,000 and thereafter it will be \$5,000 for each time.

Alderman Vaillancourt responded I will just comment that I think we ought to all pray that this works because I did listen to this Godsmack CD. Alderman Pariseau was kind enough to let me take his copy home last night. When I got home at 9 PM I was unable to listen to it because I didn't feel it would be proper to turn the sound up loud enough so I could enjoy. I did kind of enjoy it when I listened to it with the sound up this afternoon. I believe you are going to have people at this concert who, when the sound is turned down to a level that doesn't give them enjoyment, could possibly riot during this. I think this is a terrible decision and I want to be on record as opposing this.

Alderman O'Neil asked could we just clarify the amounts to make sure they were stated properly.

Deputy Clerk Normand stated in the event that the sound level is in excess of the 100-decibel limit for a period of five seconds, the sound manager will make adjustments upon notice. Subsequent excess levels shall be subject to civil penalties to be paid by the applicant. The first time it is \$2,000, the second time it is \$3,500 and the third time it is \$5,000 and for all subsequent violations.

Alderman Levasseur stated my question is for the two concerts that are before the Godsmack concert – BB King and O-Town. Are they going to be at 105 decibels or are they going to be lowered?

Chairman Gatsas replied we have no applications that have been filed at this time.

Alderman Levasseur asked you have no application for BB King who is coming on Friday and the tickets have already been sold.

Chairman Gatsas answered I don't know of an application that has been filed.

Alderman Levasseur asked what is the difference between the noise levels. Is BB King allowed to play at 105 decibels and O-Town is allowed to play at 105 decibels or are these same restrictions being put on the other two concerts.

Chairman Gatsas answered I think that is something that is up to the concert promoter and I am sure that is something that they are going to take into consideration.

Alderman Levasseur stated not to argue but you guys negotiated for them I believe. You told them what the stipulations were so I am just wondering are we going to do this for the other two. The complaints from the other concerts were the noise levels. It didn't matter what kind of concerts they were. I got the same kind of phone calls on every concert. Are we going to be putting restrictions on these other two or are we just leaving it for this one concert?

Solicitor Clark replied my advice to the Committee was that any action they take today is limited to the appeal before them. The applications for other concerts are being negotiated between the City Clerk's Office and the promoter.

Alderman Levasseur stated well it looks like discrimination on one concert, not that I disagree with the noise levels but it just doesn't look good that you are going to let the other two have louder decibels and not this one but that is the decision that this Committee had to make. I was wondering if when you put in the legal caveat that they would not hold you liable did you mean the whole contract and whole negotiation that you guys entered into with this promoter on this concert in particular?

Chairman Gatsas asked are you asking as an Alderman.

Alderman Levasseur replied what does it matter. It doesn't matter how I ask it and whether I am an attorney or not an attorney. I wish you would stop making those references. I am asking these questions because I have a concern about the legality of this. If you want to have them sign off on this I would appreciate you making sure that...when you said you had an indemnification clause...

Alderman Hirschmann interjected could we stick to the appeal and move off the appeal after we are done.

Solicitor Clark replied I can answer that now. It is part of the appeal. The condition states that they will indemnify the City for any and all claims arising out of the permits and that includes everything.

Alderman O'Neil stated I have one item if we are done with this specific issue. I would like this Committee and hopefully with the support of the full Board to go on record and send a letter to the Liquor Commission that in the eyes of the City alcohol should not be served at the O-Town concert.

Alderman Pariseau duly seconded the motion.

Alderman Levasseur asked was that part of the original negotiation that you just entered into with these people.

Chairman Gatsas answered this has nothing to do with that.

Alderman Levasseur replied I am sure it does.

Alderman O'Neil stated it has nothing to do with it and all we are doing is sending a letter to the Liquor Commission.

Alderman Levasseur replied are you going to send a letter for the other two concerts also.

Alderman O'Neil responded my motion was for the O-Town concert.

Alderman Hirschmann stated it has been discussed that the O-Town concert venue is geared at a younger age group. The fans of that band are in the 15-16 year old range and I don't know that it is appropriate that alcohol be served at that venue and maybe the Police Chief or we as a Committee should make a ruling on that.

Alderman O'Neil replied my understanding is the City has no legal jurisdiction on this and that the jurisdiction falls with the State Liquor Commission and all that we can do is send a letter voicing our concern. That was my motion.

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

Alderman Levasseur asked, Alderman O'Neil, did you ask if it was feasible for the promoters to shut the liquor off at a certain time instead of going all the way to the end of the concert. When I was at Mansfield, the concert ended at 11 PM and they shut them off at 9:45 PM.

Alderman O'Neil answered my position is that there should not be alcohol served at that concert and that was the motion I made.

There being no further business, on motion of Alderman O'Neil, duly seconded by Alderman Pariseau, it was voted to adjourn.

A True Record. Attest.

Clerk of Committee