

## COMMITTEE ON PUBLIC SAFETY, HEALTH AND TRAFFIC

**February 19, 2008**

**5:00 PM**

Chairman Shea called the meeting to order.

The Clerk called the roll.

Present: Aldermen Shea, O'Neil, J. Roy  
Aldermen Sullivan and Ouellette arrived late.

Deputy City Clerk Matt Normand noted item 5 of the agenda contains a tabled item, relating to the blocking of intersections, and a report has previously been requested of Jim Hoben, Traffic Department.

Chairman Shea addressed item 3 of the agenda:

3. Communication from Sara Anderson of Rock 101/WGIR 610, requesting to use Arms Park for the 17<sup>th</sup> Annual Rock 101 Sky Show on May 25, 2008 with set up to commence on May 24, 2008.

On motion of Alderman O'Neil, duly seconded by Alderman J. Roy, it was voted to approve the request subject to meeting conditions of licensing or other city departments.

Chairman Shea addressed item 4 of the agenda:

4. Communication from Mitch Sawaya, owner of the Strange Brew Tavern at 88 Market Street, requesting that he be allowed to temporarily close a portion of Franklin West Back Street each week from Thursday through Saturday between the hours of 5:00 p.m. and 11:00 p.m.

Deputy City Clerk Normand noted an updated letter from Mitch has been distributed to members of the Committee that has a diagram, some pictures of the area that he is referencing, as well as communication from Attorney and Mrs. Clifford Ross who live next door.

On motion of Alderman O'Neil, duly seconded by Alderman J. Roy, it was voted to discuss this item.

Alderman O'Neil stated I'll share a little bit of background in this. I was asked to join Alderman Long in a meeting with many city departments to meet with the owner of Strange Brew regarding the possible temporary closure of the Back Street. I don't have the date that it was in the fall that we must have had eight different departments down there. There was a little bit of concern about safety and how any closure would be set up to provide safety so that vehicles approaching the alley would see it. I am aware of, just this evening, Attorney Clifford Ross's letter, and I know there have been some issues over the years, but I have been led to believe by the police that things are actually working out okay there. Attorney Ross's letter doesn't seem to indicate that but when I was with Alderman Long, we did talk about hanging around in the parking lot and again, the police, based on my recollection, said that they did not have a lot of calls for service regarding the parking lot. So I don't know if we want to hear from both parties on this. My observation is, and I've gone down there to check it out several nights, is that the people are outside smoking now that we have the no smoking in all restaurants in the City. There can be a dozen plus out there. I have observed when I've gone down there that vehicular traffic coming through the alley can come through at a high rate of speed, and it's not currently a very safe situation, so I would hope that maybe we could get the parties together to work this out. One night I happened to go down there I happened to see a police officer who was on duty at the facility speak to people about being loud outside. So I think some of this and certainly Attorney Ross can speak to this, some of this is old items that I believe have been addressed but maybe we could ask both parties to come up, Mr. Chairman?

Mr. Clifford Ross, Attorney at Law, identified himself as the husband of Johanna Ross, who owns the building in which they live.

Mr. Mitch Sawaya, owner of Strange Brew Tavern, stated there are a couple of reasons why we chose to present this as a closure of the alley. One of the reasons is obviously to remain competitive with the other places downtown. Pretty much everybody downtown has some sort of outdoor seating now as sidewalk seating. The second reason that is that with the no smoking ban that's gone into effect, on any given night we can have anywhere from 12 to 35 people standing in that alley smoking. Regardless of how we decide to manage it, they're going to be out there. We thought that by closing off that section of the alley during between the hours of 5:00 p.m. and 11:00 p.m., we could at least control it, keep it in that area, give people the opportunity to take their drinks outside with them, do last call out there at 10:00 at night so we weren't keeping neighbors up. I saw Mr. Ross's letter today. As far as most of the stuff in there goes, I thought we had addressed that a long time ago, so if there are more issues we need to address, I guess that's news to me.

Alderman J. Roy stated Mitch, you mentioned that the other places downtown have accessibility to sidewalks. Could you use a sidewalk on Middle Street?

Mr. Sawaya stated no we can't. There's no sidewalk that we can access on Middle Street and the one on Market Street is such a slope that we could never put tables out there. And we don't have an entrance or exit on that side, either. So now you really start to lose control.

Alderman O'Neil stated this is not unusual in some other cities. I'm not sure if Portsmouth does it. I'm aware that Church Street in Burlington, Vermont, is a street where they close for several blocks. They enclose the entire city street to allow outdoor seating at lunchtime, dinnertime, and into the evening. I think there's a very small window where it's actually open to vehicular traffic. Again, my thought was that Mitch working with the police had addressed many of these issues. Are you aware of any on-going problems that the neighbors had?

Mr. Sawaya stated no. As a matter of fact with all the stuff that's been going on with all the different bars and clubs downtown, every time I read something or hear a quote, we get referenced as the place that's handling it the best. So I'm more than a little concerned when I see a letter like that. I thought we had done a pretty good job of addressing everyone's concerns about a business downtown.

Alderman O'Neil asked and have you had any recent, the past six months or year, conversations with Attorney Ross or with his wife?

Mr. Sawaya stated no I haven't.

Chairman Shea stated I was going to mention that even though there are not problems existing now, a problem that could be addressed is, what will result as the result of this particular change? That's the point. In other words, you can't contrast what has happened before in terms of people going out smoking vis-à-vis what's going to happen when tables are out there and drinks are being served and so forth. But Attorney Ross, maybe you'd like to address your concerns as a property owner.

Mr. Ross stated thank you for the opportunity of addressing you. My wife shares ownership of the building with Raymond Cloutier, as I indicated has been rented for residential purposes as well as some offices for close to 170 years. We have owned the place about 35 years and have lived there most of the time, and we have residential tenants on the first and second floor, and as stated, we live there. The situation in the past was worse. It was primarily motorcycle noise which was really outrageous. It was a real problem but, thank God, that has improved and it has improved as a result of Mitch. We give him credit for that. We happen to like Mitch. We think he runs a good business. It's been the first successful business

venture at that location for as long as we can remember. But the fact is that right now we do not have a noise problem until Strange Brew closes because they have done a very, very good job in sound proofing the building. Though there is quite loud music inside, I'm sure, it doesn't bother us. So my wife and I...I'm 80 years old; my wife is along in years, and our tenants, have no trouble sleeping until Strange Brew closes. When Strange Brew closes, not every night, but on many nights, the young people move from Strange Brew to the alleyway to the parking lot which is directly in front of our building, about 25 feet from our living room, and for an unknown reason to me the boys yell at one another, there's loud music, the girls scream, and on many nights I represent we have called the police, our tenants have called the police, and the police have responded. They don't always get there promptly, but they get there as soon as they reasonably can. Oftentimes by that time, the noise has erupted, but at least we get some rest which we really need. But if there's going to be outside drinking and any sort of noise we will have no peace and we are entitled to some rest in that particular area and this is not only how I felt but this, as I understand it, is the way Mr. Gerlaume has felt who owns the rental apartments directly across from Strange Brew and other people in the area have authorized me to see what I can do to keep the noise down. Young people, when they go into Strange Brew, they couldn't be more orderly. But when they come out at night and they get down into our area, they're boisterous and loud, and that continues until late in the evening. So with respect that I have for Mitch and the consideration for my wife and I and our tenants, we ask you not to authorize outside drinking and music during the early evening hours until 11:00 or as it says at 10:00 at night. It's not necessary. I don't presume to tell Mitch how to run his business. He runs it very well; I'm close enough to that place to see that he does very well; he does very well; he really doesn't need this though he might like it.

Alderman J. Roy stated Mitch you've been responsive to the concerns in the neighborhood in the past. I'm believing that you'd be responsive again in the future if there are any concerns.

Mr. Sawaya stated I think we have been. I think we would continue to be. I mean, part of the thing we said in the meeting that Mr. O'Neil set up for us, was that we would only do it on a night when we had a police detail. That was the first part. The second part is we're not going to have entertainment or music outside, there's no additional volume other than the people being out there. And what Mr. Ross keeps referring to is the noise of people leaving at night. I'm not sure that the people being out there from 5:00 to 10:00 is the issue as I hear it. The issue is people leaving. And if we need to do more to address that then that sounds like the bigger issue here.

Alderman O'Neil stated can I just clarify that. Cliff, you seem to indicate at closing. That would be in the 12:30 to 12:45 timeframe or, I don't want to speak for you, but that's what I interpreted what you were saying.

Mr. Ross stated I don't know where Mitch lives now but I know that at least until recently, he lived away from the premises and he rides his motorcycle to work so we wake up, my wife and I wake up, when he gets on his motorcycle to go home. And after that that's pretty contemporaneous with the closing and the people, it's probably around 1:00 or 1:30, they come out into the parking lot. And I'd like to offer a suggestion and a compromise because we genuinely like Mitch and I know he provides a lot of relaxation and fun to young people and though we're old, we were young once. If he would hire a policeman to supervise the noise in the street area that he now wants to open up, but if that policeman could somehow or other be available in the parking lot as his people get out and keep the noise down, then we'd get a break on both ends and the situation would be better than it's ever been.

Alderman O'Neil stated Cliff, you're saying Mitch hires a police officer, I think it's Thursday, Friday, Saturday. Your request is that that police officer be involved with helping to prevent the noise issues that are in that little alley, between the buildings to the parking lot and you're saying that maybe the police officer on duty or hired by Mitch could help address that noise issue? That would be greatly helpful for you and the neighbors?

Mr. Ross stated absolutely.

Chairman Shea asked may I make a suggestion? Maybe if we table this and Mr. Ross could speak with the owner and see if you could amicably work something out so that both the concerns you have and he has can be worked out. Obviously there has to be some provisions for making sure this is carried out and it's not just a mutual agreement, it's something that's going to be enforced. If it isn't enforced, we'd have to be notified. That's what my thoughts and suggestion would be, that maybe we could table this and you could get together and come back to us with something. Does that sound reasonable to both of you?

Mr. Ross stated more than reasonable.

Alderman O'Neil stated just one comment Mr. Chairman...and Mitch actually, if I recall suggested this when we met with the City staff, and that is call it a pilot program. Don't permanently commit. Call it a six-month program and then at the end of the six months, if there are issues, before Mitch invests in some permanent equipment to open and close the alley, try and make sure all the bugs are in fact worked out.

Chairman Shea stated well I'm assuming you would discuss that with him.

Alderman Sullivan moved to table. Alderman Jim Roy duly seconded the motion.

Chairman Shea stated thank you very much for coming in. I know Mr. Ross is just getting over a bout with pneumonia so I appreciate that.

Chairman Shea called for a vote on the motion to table. There being none opposed, the motion carried.

5. Chairman Shea advised the Traffic Division has submitted an agenda which needs to be addressed:

**NO PARKING DURING SCHOOL HOURS – EMERGENCY ORDINANCE:**

On Rockwell Street, east side, from Celeste Street to Tilden Drive  
Alderman DeVries

**NO PARKING DURING SCHOOL HOURS:**

On Rockwell Street, west side, from Fernand Street to Celeste Street  
Alderman DeVries

**SIGNAGE – “CAUTION ELDERLY CROSSING AHEAD”**

On Tarrytown Road, north and south of Auburn Street  
Alderman Osborne

**CROSSWALK:**

On Ferry Street, east of Fourth Street  
Alderman Smith

**RESCIND NO PARKING ANYTIME:**

On Cleveland Street, north side, from Second Street to Hiran Street (Ord. 2850)  
Alderman Smith

**NO PARKING ANYTIME:**

On Cleveland Street, north side, from Second Street easterly to the dead end.  
Alderman Smith

**Addendum:**

**NO PARKING DURING SCHOOL HOURS:**

On Tilden Drive, both sides, from Rockwell Street to Hoyt Street  
Alderman DeVries

Alderman O'Neil moved to approve the Traffic Division Agenda inclusive of the addendum item. Alderman J. Roy duly seconded the motion. There being none opposed, the motion carried.

Chairman Shea addressed the tabled item regarding the blocking of intersections:

**DO NOT BLOCK INTERSECTION:**

Brown Ave., east, side at Connecting Road – post mount  
Brown Ave., at South Beech Street, north bound – post-mount  
Brown Ave., at South Beech Street, south bound – post-mount  
Granite Street at Canal Street, west bound – mast-arm mount  
Hanover Street at Tarrytown Road, east bound – post mount  
Mammoth Road at Lake Ave., east bound – mast-arm mount  
Mammoth Road and Massabesic Street, east bound – post-mount  
Mammoth Road and Massabesic Street, north bound – post-mount  
South Willow Street at Gold Street, southbound – post-mount  
Weston Road, west of Huse Road at Kara Street – post-mount  
Weston Road, north side, east of Andrea Drive – post-mount

On motion of Alderman O'Neil, duly seconded by Alderman Ouellette, it was voted to take this item off the table.

Deputy City Clerk Normand stated this item was an informational list provided by Jim Hoben. He's here tonight. He can speak on this. At the last meeting, there was discussion about increasing the fine for blocking intersections. I think the committee also asked Mr. Hoben to go out and provide the Committee with a list of where all the current signs are and this is his list.

Chairman Shea stated before you come up Jim, I'd like Deputy Police Chief Marc Lussier to come up please and address the concerns. I'm sorry that this item that you sent to me wasn't given to all the members of the Committee.

Mr. Marc Lussier, Deputy Police Chief, stated I will attempt to paraphrase this quickly for you. At the last Public Safety, Health and Traffic meeting, there was some discussion about blocking intersections and how much of an issue it was for us. I know there was talk about raising the fine from \$50 to \$100. I did some research and there's a couple options when an officer stops somebody for this violation. They can write somebody for a violation of state law or violation of a City ordinance. I ran some numbers and we have never given a summons or a citation for violating a City ordinance. Our officers have a couple of options. They can write somebody for a violation of RSA 265:69 which is Stopping, Standing or Parking Prohibited in Specified Places. The fine associated with that is \$43.20 and that's by state law. They also have the option of writing, if there is signage there, somebody for RSA 265:9 which is Obedience to Any Required Traffic Control Device, and the fine for that is \$72.00. So when we have issues

like this, we do tend to write them a motor vehicle violation as opposed to a violation of a City ordinance. I ran some numbers and from October 1, 2006 to present, we have written no violations of that City ordinance. So to change the ordinance from \$50 to \$100 will do little because we don't write people for violating the City ordinance; we write them for a violation of the state law.

Chairman Shea stated I know that he's preparing the form for other members of the committee, so what you indicated is, according to RSA 265:69, you had 40 violations and for 265:9 there were 820 violations and for the actual violation of the City ordinance, there were no violations written. No enforcement, no violations. Is that correct?

Mr. Lussier stated yes, well the 40 number you had is actually 54 because we had two different systems. I can give everybody a minute to digest that.

Alderman J. Roy asked if we were to change this ordinance, would that give you a better tool in your box to fight this problem or would you suggest we leave it alone and go with the state?

Mr. Lussier stated I would leave it alone and as I indicated at the end of the letter, if anything, you can work to have the fine raised for the state violation. I would work toward having that fine raised. There are more teeth in a state violation than a City ordinance.

Alderman J. Roy stated that was my next question. Thank you. Now my last question to you is going to be whether it's a state violation or a City ordinance that you give a summons for or a ticket? Does the money go to the same place?

Mr. Lussier stated no. When we write a motor vehicle, when you get stopped for speeding and we give you a ticket that goes to the state. City ordinance comes to the City.

Alderman J. Roy asked so would it be better for the city if we tried to collect our own fines? I'm not trying to put you on the spot.

Mr. Lussier stated the Police Department's standpoint on it is that we are there to enforce the law. We're not there to make revenue. It's not our job to give out tickets to bring in money. We're trying to enforce motor vehicle laws in the way we see best.

Alderman J. Roy stated and it would still be a judgment call on the officer's part whether he wrote the state or the City ordinance up?

Mr. Lussier stated yes, the officers have that discretion.

Chairman Shea asked if there were any other questions from members of the Committee.

Alderman Osborne stated we already have these signs in place in these 11 different sections of the city. I found, even in Ward 7, as well as Ward 5 on Mammoth Road and Lake Avenue or Tarrytown and Hanover, we had those signs put up. In fact, I had one of them put up on Hanover and Tarrytown because they used to block the intersection there. All the time, coming down from Mammoth Road they used to block the intersection so it always used to back it up in that little spurt between Hanover Street and Mammoth Road. So I put that sign there: Do Not Block Intersection. The whole thought I had was that the money goes to the state if it's a moving violation. If it's a non-moving or City ordinance it goes to the City, which is nice. As it stands now, what we have for a fine for an ordinance, I don't see any problem with changing it at least. At least we have different avenues we could take as a first offense, second offense, or third offense. On top of that, if you were to post a sign underneath the state ordinance or state statute and you put that sign underneath the No Blocking Intersection Sign and you put Maximum Fine \$1000, people would think twice before they start doing it. I'm not saying it'll cure the whole situation, but there are instances where people try to cross over or they block the intersection for quite awhile and it backs up traffic. I think what I'm trying to get across here is just adding to a sign that's already there, it'll be a state situation. A thousand dollars. That's not City. That's state statute. Mr. Arnold, do you want to explain that situation about the state thousand dollar maximum fine and so on?

Mr. Tom Arnold, Deputy City Solicitor, stated blocking an intersection is a violation. Pursuant to state statute, the maximum fine for a violation I believe is \$1000. However, the state, for certain offenses, as Officer Lussier has referred to, has certain standard fines, which will commonly be what the will impose. However, the court, in its discretion, can go higher than the standard fine for aggravating circumstances.

Alderman Osborne stated the point I'm trying to get across here is, if you put something like that on a post and you see it, you're going think twice before blocking. A lot of people will automatically block it because they're afraid the guy on the other side is going to take his spot. This is human nature. You're not going to cure it 100%, I agree with you, but at least it does something.

Alderman O'Neil stated this is one area my colleague and I have a difference of opinion on. He believes more in signs than I do. I believe writing tickets changes the behavior, and maybe I will agree that I believe some of these intersections listed are problems at times of the day. I know we've had some success with targeted enforcement with the Traffic Division. Maybe that might be the best

place to handle it. Do you have or could you get a breakdown of the 832 that are written under RSA 265:9. You wouldn't know if the officer is part of the Traffic Division, is on a specific detail for traffic enforcement, or it's just a regular route officer? I don't know if the system breaks it down that way.

Mr. Lussier stated I can't tell you right now. I'm sure it could be done with a great amount of research.

Alderman O'Neil stated for example, when speed enforcement is the targeted enforcement, they were very successful last spring, summer and fall and again, I differ with my colleague. We can put up the signs, but if they're not getting tickets, it's not going to mean anything.

Mr. Lussier stated Alderman, you bring up a good point. I would be more than happy to direct my officers to any problem intersection. And if there are problems, we can put some directed patrol out there and see if that works. We will be joining together with state police again in the near future for more enforcement initiatives and that could be made one of their target areas.

Alderman Garrity stated four of these locations are in Ward 9. I kind of side with Alderman O'Neil. I'm not a big sign fan. There are Do Not Block Intersection signs down there. I think that's enough. You don't need to keep adding on to them. So again, it's about enforcement and I would urge my colleagues to reject the proposal.

Alderman Osborne stated everybody seems to climb on me about signs, but I think I did a good job out there with them. And I've taken down more signs in my Ward than I've put up. At least the signs that are up there now work. The signs that were there didn't work. And you can't be everywhere at one time. That's impossible. But you have to do something out there.

Alderman O'Neil asked is there an actual communication that we have to act on? With all due respect to my colleague, if they're writing the tickets under the state law, changing the ordinance is not going to do anything. It's not going to get them to write more tickets. I agree with Alderman Garrity. I think enforcement is the issue, not signs.

Alderman O'Neil moved to receive and file this item. The motion was duly seconded by Alderman Sullivan.

Alderman Osborne stated the other thing here is that the money is going to the state this way. And the other way, if we had some sort of ordinance there, at least we could take the money and put it to the City instead of the state. So I don't know why we keep sticking with the state with everything. If they write an

ordinance ticket rather than writing it as a state statute type of situation, at least the City would be getting some money out of the situation.

Chairman Shea called for vote on the motion to receive and file this item. There being none opposed, the motion carried.

Chairman Shea addressed item 8 of the agenda:

8. Ordinance amendment relating to restrictions on registered sex offenders.

Alderman O'Neil moved to take item 8 off the table. Alderman J. Roy duly seconded the motion. There being none opposed the motion carried.

Alderman O'Neil stated I know Representative Pepino is here, but I see three of the experts from the Manchester Police Department in the audience and I don't know if Deputy Lussier wanted to speak or wanted to have the three individuals who work this regularly come up. I've had conversations with Sergeant Fuller on this very subject and maybe the three of them could come up front.

Mr. Lussier stated at the last meeting, Alderman O'Neil had asked to speak with some of the people who actually dealt with the sex offenders and did the registrations. This evening, I brought Sergeant Fuller who did it for four years prior to being promoted. I have Detective Brian Reil who did it for a year, and Detective Victoria Catano who's been doing it since this past summer. These are the people that deal with this every day and Sergeant Fuller will begin the briefing for you.

Mr. Scott Fuller, Manchester Police Department Sergeant, stated for seven years, I was assigned as a detective to the Juvenile Division, investigating child sexual assaults. I was assigned for four years to maintaining the sexual offender registry in Manchester. To be very clear, we do not support a proposed residency restriction ordinance in the City of Manchester. The current law is working well. For those who are unfamiliar with the stipulations of the current law, New Hampshire RSA 651-B, I'll sum it up. All registered sex offenders must come in to the local police departments and register twice a year, every six months. Should they change their address, place of employment or obtain a new vehicle or sell a vehicle, then they have five business days to come in and personally notify the Manchester police. As a side note, in January 2007, the sexual offender law at the state level went through some modifications and one proposal was a residency restriction to be enacted at the state level for New Hampshire. Through committee, that was eliminated. It was studied, examined and eliminated. So the State has already delved into this issue of residency requirements or restrictions for registered sex offenders. Let me also point out that the sexual offender registry, in and of itself, is not going to prevent sexual assaults. The mere fact that

an offender has to come in and see the local police personally every six months is not going to stop any potential assaults that may be committed in the future. The sexual offender registry educates the public. It lets parents, teachers, neighbors, caregivers know when a sexual offender is living in our midst. That way, that person can take appropriate steps to ensure the safety of their own children; to keep the children away from people that they deem to be unsafe. The registry simply provides the mechanism through which people can become educated as to who they should be watching out for. The current system, as I said, is working. In the 7 years I was assigned to the juvenile division, I had three-four sexual offenders re-offend. Each one of these people offended and sexually assaulted a known victim. It had no bearing upon where they were living in relation to their victim. In fact, 90-95% of all sexual assaults are perpetrated upon victims by known people – family members, relatives, caregivers, babysitters. There are very few stranger attacks, per se. Sexual offender residency restrictions have been enacted in different states across the United States. There are studies coming from Boston, South Florida, Green Bay, Wisconsin, Iowa, and Kansas and two glaring facts came out of all these studies. The number one fact is that there is no correlation between residency restrictions and recidivism rate. The second fact was that there was a dramatic increase in homelessness. As it stands now, there's only one predominant homeless shelter in Manchester and that's New Horizons which has a policy prohibiting sexual offenders from entering the shelter and living there. If sexual offenders become homeless, they're not going to leave Manchester. I don't know if that's a residual benefit that some of the proponents are hoping for, but they're not going to leave. For better or worse, Manchester is a very attractive community to sexual offenders for several reasons. There is low-cost housing. There is access to social services, mental health services, counseling. There is efficient transportation to all of these services. There are two prison halfway houses in the State of New Hampshire. One of them is here. When they parole out of the halfway house, they live in the community in which they have already started to establish their ties. Probation and parole services are here and they are oftentimes required to live here in Manchester. So, if the offenders are restricted in where they live, they're not going to just leave here. They have too much at stake. They have to stay here. And any kind of disruption to their reintegration into our community is going to be very problematic for them. Currently, in Manchester, we average about 330 sexual offenders at any given time. We have maintained a consistent 97% compliance rate with the offenders maintaining and obeying and following laws. The way we've enforced this is by maintaining strict enforcement. We take a zero tolerance policy for infractions, and three years ago, we developed a sexual offender compliance check program. This was in response to statistics where we found we had an 8% violation rate. Manchester police were not satisfied with this, so we developed this program and have successfully reduced our violation rate to 3%. This program entails juvenile protectives going out to each offender's residence and physically confirming that they really live where they claim to be living. The benefits of this are that we get

to see the offenders three-four times per year in addition to the two required state registrations. We force them to have greater accountability and we also provide a perception that the police are watching. This perception might be the key to keeping an offender from potentially re-offending. Right now there are five communities in New Hampshire that have sexual offender ordinances. Their offender populations range from three to thirty. They are not a proper comparison for Manchester. Right now, our system works very well. We're at 97%, we're holding there. As always, we strive to get higher and higher percentage rates of compliance, but having residency restrictions is not going to be the answer.

Alderman O'Neil stated currently you're doing the compliance check. The intent is to do "X" number a week, each detective within the division to do so many a week or so many a month. That's the intent? Obviously, your caseload of other investigations is going to affect how many you're actually able to do every month.

Mr. Fuller stated yes.

Alderman O'Neil stated it's an extra job to what you're already doing.

Mr. Fuller stated it's an extra task that's been given to each detective in the Juvenile Division. It can fall on the priority list, based upon the current workload and it is something that the detectives routinely attempt but are not always successful at.

Alderman O'Neil stated and the intent is to see the 300 plus, three to four times a year?

Mr. Fuller stated that's correct, in addition to the required two times a year.

Alderman O'Neil stated you and I did have a conversation about this one evening. You said to me, if I recall, that if we wanted to put some more teeth into the sexual offender issues in the City, it could be to commit to more funds so that compliance checks could be done at a more frequent rate.

Mr. Fuller stated I think that the more often detectives can get to an offender's doorstep to confirm that they are in compliance, the better off everybody is.

Alderman O'Neil stated and we have that with other programs. We talked about traffic enforcement. We commit some overtime money. I know the department has a program with the state probation officers where they go out and do compliance checks. I think the Juvenile Division does JOLT – I'm not even sure what that is. That's a compliance check isn't it?

Mr. Fuller responded probably.

Alderman O'Neil stated so if we really wanted to put some teeth in this, commit probably not a great deal of funding, but some funding to the Police Department for some overtime where officers could go out and actually hit a number of these in a given afternoon or night or weekend day or whatever it may be, am I correct?

Mr. Fuller stated well, as I said, this is a routine attempt to try to get out there and do this, but current case load doesn't always allow it. So, if there was a dedicated enforcement program where officers could be strictly dedicated to the task of going out and checking on the compliance rate of the offenders, that would be a beneficial thing to everyone involved.

Alderman Sullivan asked Sergeant Fuller, does the state play any role in the compliance check process or is that strictly a City responsibility?

Mr. Fuller stated this is something that we developed on our own about three years ago, as I said, because we were not satisfied with 8% violation rate. We came up with this and I've also just recently read that some other communities are starting to do the same. I read most recently that Concord is starting to develop a program similar to ours.

Alderman Sullivan stated so I guess the answer to my question would be that, with the exception of the statutorily required registration, this is basically something that the City has to fund on its own and its not a state responsibility. You don't get any substantive assistance from the state authorities on this.

Mr. Fuller stated that's correct. We do not receive any aid from the state in this regard.

Alderman J. Roy asked Sergeant, you say that you have to go out and check on each one of these people twice a year?

Mr. Fuller stated no sir. We mail out letters to them reminding them that they have an obligation to come in and meet with us and then they come in for their annual and semi-annual registrations. That is required by state law.

Alderman J. Roy stated so they have to visit you twice each year and you are trying to do another three to four?

Mr. Fuller stated we try to go out and go to their residence and confirm that they really do live where they claim to live.

Alderman J. Roy stated and you said you are trying to do it three or four times each year for each person, so that's about 1200 visits a year?

Mr. Fuller stated yes sir.

Alderman J. Roy stated 24 a week...are you actually able to do that?

Mr. Fuller stated as it stands right now, with the current caseload that the detectives are managing, no. We attempt to do that, but as always, with priorities the task of going out to their residence will start to fall on the priority list as cases mount. If there was a dedicated timeframe or program for the detectives, then that is what they would be isolated to.

Alderman J. Roy stated I understand that. What would you say is the number of checks you make a week now? Just a ballpark, I'm not going to hold you to anything.

Mr. Fuller stated about 15.

Alderman J. Roy stated so that would blend in with what Alderman O'Neil said; if we threw a little money that way, then we could get it up to that 24.

Mr. Fuller stated in addition to the 15, I think we could easily get to 24 or beyond. Let me be very clear. The 3% violation that we are experiencing is not in a recidivism rate; they're not new sexual assaults. The 3% violation comes in the form of the offenders not following the state mandate which is to notify us in a proper timeframe where they've moved to or who their new employer is.

Alderman J. Roy asked in response to that what is the recidivism rate, for people that are in Manchester?

Mr. Fuller stated as I stated earlier, in my seven years I found three to four people in my tenure to have re-offended. I must reiterate that those were known victims, known suspects, and they had no bearing or correlation to where they lived in relation to a school, playground, or daycare.

Alderman J. Roy stated in seven years you saw three?

Mr. Fuller stated three to four sexual offenders re-offend.

Chairman Shea stated possibly when the Police Department does make out its budget, they could ask for some kind of funding in order for this particular program to be enforced to the level that would safeguard the safety of our children and others.

Alderman DeVries stated I just wanted to add to the conversation that, after discussion with the Attorney General's Office on the legislation that is going forward, there will be an amendment that I am bringing forward. I actually withdrew legislation that would have run independent and we decided to join my idea with the other legislation going forward from the Governor's Office. Basically it will codify for you the authority for you to be at the door, knocking, for a compliance check. It just closes what the Attorney General thought was a minor loophole in the law wherein a good attorney might have questioned why you were at the door. So I would appreciate your coming up – I'm sure you'll be there anyway – for the sex offender legislation that's coming up for the amendment and making sure that the committee is aware that that is something that would benefit not just Manchester; if Concord has a compliance check program and there are other communities that want to do this. It's a great program. It's a necessary program. Be at the door.

Mr. Fuller stated Detective Catano and Detective Reil really do a good job with it.

Alderman O'Neil stated I would just like to thank the detectives for their efforts. This is kind of one of those great things they do behind the scenes and continue to make the City safer for all so I want to thank them on behalf of the Board for their efforts.

Mr. Lussier stated if I could just reiterate something that Sergeant Fuller said, the Manchester Police Department, Chief Jaskolka, the Deputies, do not support this.

Mr. Leo Pepino stated I want to go back now to last September for a minute where Mrs. Peterson came in here and said something about sex offenders don't murder people up here, they don't rape them and kill them. Now back in 1964, we had a gentleman named Coolidge. He was convicted in 1965 for the 1964 sex slaying of 14-year old Pamela Mason. Twenty-five years later he came up from parole and this Board right here...they were going to put him in a halfway house. This Board right here took the position they did not want him there. So he went to upstate New York. So when they say this will never happen, this happened a few years ago to me. It could happen again in another fifteen or twenty years. Listen to the police officers. I agree with a lot that they say. They didn't talk about this ordinance. All they talked about was checking, compliance. Now the state sex offender office has no position on this. And they say you have to educate the children. That goes back 20 years to Megan's Law. Imagine trying to educate a little girl or boy, four, five, six, seven or eight years old. They don't understand these things. This is the same thing they used in Megan's Law and the Adam Walsh Act. Then they say these people will go underground. They'll be homeless. In the last 25 years, this didn't happen. All these 12 states passed this law. Five towns passed it. In Dover, after they passed it, six wanted to move into the school zones. They told them no; five moved someplace else and one left the

state. What happened in Derry here two or three weeks ago? This guy came to Derry. He murdered his victim. He moved into a school zone. And what happened? If they'd had a residency restriction like this, he wouldn't have been there in the first place. They would have caught this later. Because as you know, murder is not yet part of your backlog on the database. And they're going to do compliance checks. They do them now. We're not talking about compliance checks. In the paper here two weeks ago, they had 260 people out for warrants, and they had 9 sex offenders they couldn't find. We're talking about living next to a school. And I'll tell you, if you people remember, Megan's Law and the Walsh Act; they were combined. That's what gives us our registry today. Back in those days, two states had a database. And when they passed all this, it was all about Megan's Law. This is what she said. 'If I would have known my little girl was out there playing alone and there was a sex offender across the street, she never would have been out there.' That one sentence passed Megan's Law. So we're talking about residency here. We're not talking about compliance. They do all this. This is the law. And next year when this all comes into effect, like Alderman DeVries said, the bill they're passing right now is going to be part of this. The sexual registry is going to be more than this. Some people have been to Concord. And they are trying to change the registry. You can't do that. It's federal law. Now this group here, they're always someplace where there's sex offenders. And like I've said, like in Nashua. The mayor in his final days vetoed this. They were two aldermen short at the meeting. Now the people down there have not gone to the new mayor yet. So I talked to her aid today. And they're trying to convince one more alderman to get on their side and go back and overturn this. I shouldn't have called them because I tipped them off about what was going on down there. But it's simple. I mean, in Nashua, the minute it hit the papers. Now one thing here, they've done like in Nashua, they've pinpointed around these schools and these zones where the sex offenders are. They've drafted a map. Has anybody done this? We think this bill is finally on its last leg. Is nobody working for this bill because they don't think it's going to pass? Or it's not good? But as far as information. I can give you all the information you want. They talk about unconstitutional. There are two federal court cases I gave to you in my letter. I gave you their number in case your City Solicitor wanted to check them. They make it very clear. What the states were trying to do is help the children. With some of the language, like when they put 'banishment' in. And it won't pass, like the one in Concord. It was too strict. But that will be back. For the new members, maybe you don't know what's going on here because we brought all this up before. When they said there would be no place for these people to live. There's not a block you can drive by without an apartment for rent that's not near a school. I can sit in my house and look at three sex offenders' houses. And I can see Central High School. And then in Megan's Law it came out that children have a fundamental right to be protected from harm. These are the steps that can be taken at all levels of society to achieve this goal. This is one of those steps in society. Like I told you about Megan's Law. So far, the Chairman of the Board

has said to this Committee, pass something. Pass anything. Alderman Osborne said in the paper, the parents want some sort of protection and you can't blame them. Alderman M. Roy said it's just another tool to keep children safe. Now they've had a few laws out there in Concord on sex offenders, and Governor Lynch says you can't do enough to protect children because the cost to children is immeasurable. When we had the New Hampshire Sexual Predator's Act in Concord, which went into effect a year ago January when I was up there, one of the Senators said public support for this law is clear. Society's answer to this is to lock them up and throw away the key, regardless of cost. We have one church in our city that was in the paper. The offender had to sign an agreement to stay away from the church while the children were there. Right in this city. And the online child safety act they're working on now, Governor Lynch says it's one of the toughest laws in the country. One of the co-sponsors was Alderman DeVries. For that, I thank her. The Hooksett Banner said about Manchester that it's strange how a sex offender can live on the very same street and just around the corner from three schools. It's plain crazy. I live in Manchester near West High, Parkside Middle School, and Gossler Park. After checking the registry, I was blown away. There were 30 in the area. How can that be? I thought they couldn't be close to schools or any type of children's centers. When Megan's Law came about, it was in effect January 1, 2009. Your states were expected to pass something. Now the one they passed about when a sex offender's getting released, the courts can call him back in and review him. If they think he's not fit, put him back. That happened in 1993 and 1994. California added three strikes you're out. Twenty-five years to life. They've had that since 1993, 1994 or 1995. Sex offenders have not gone underground. They won't register. They won't do this. Well before California put the law in, 25% weren't registered. Now more are registering. But in California, it's a little bit different. I explained to you what happened here a few years ago. I can't understand the Police Department. When that halfway house was up here on Elm Street, this Board was against it. Alderman Osborne put it on the ballot. Seventy-five to eighty percent of the people in this City did not want it. But yet, our Police Department was in favor of that. This is a pure and simple ordinance and you're the second police department to come out against it. Some police departments wrote it. Look what happened in Derry. They called an emergency meeting. The police called it for the citizens down there, and they came in and talked about it. You have a group here testifying before you all the time. This woman testified in Concord, and she had them crying up there. But then it turned out she sent all the Aldermen this paper, talking points. House Bill 504 in Concord would have changed the sexual offender database; it would have made a few changes in that. This group went up there and had the House Committee pass it unanimously on a voice vote. The Senate Committee passed it 4-1. It was killed on the Senate floor. Eight people were trying to change the sex registry data. And like they've said here, this is on its last leg. The five New Hampshire towns are being litigated right now, which they are not. One is being threatened to be litigated. Like I said, if it's a plain,

nice, simple ordinance, it's plain, but I don't know. You people don't have to take up this report. You can kill this right here and not pass it on to the Board. But I did want to see a vote on this from the Board of Mayor and Aldermen. But so far, like I told you, I've got four Aldermen so far. If I get one or two more, that's all I need. The Mayor's in favor of it. It takes what five or six to kill the Mayor's veto. So I'll keep working on getting a couple more. I don't want to embarrass anybody. I know it's a very touchy subject. Children. Anytime I vote for children I killed the budget one year up in Concord because children wasn't in one part of it.

Alderman J. Roy stated thank you and Mr. Pepino for coming tonight and talking to us. After listening to the police, my big question...and I told you this earlier, I had a big question about this. Do you have any reports, any studies at all that talk about a percentage, a number that proves that residency, the residency law that you're talking about, directly affects the percentage of people who commit that same crime again?

Mr. Pepino stated there are studies all over the country.

Alderman J. Roy stated the studies the police talked about said residency didn't affect recidivism. I am wondering if you have any studies we could see that say residency does affect recidivism. I'm looking for the percentage of recidivism. Are there any studies from areas that have these residency laws that prove that residency restriction works? We were talking to the Police Department a little earlier, and they have a program they put in place which has had a direct effect on recidivism, and it's had a direct effect on these people complying with the laws already in place. From what I've been hearing from both sides, I'm led to believe that our efforts are going to be a whole lot better spent supporting that successful program at the Police Department instead of putting another law or ordinance on the books that we have no proof will have any effect whatsoever.

Mr. Pepino stated there are 12 states and five towns, and there's all kinds of stuff on the record from the cities and towns and states where it's working. You can get studies on that.

Alderman J. Roy stated well, you've done so much work on this, I'm asking if you have any studies or numbers?

Mr. Pepino stated no, I didn't go into that. But I could look into it. I'll get you all you want. I didn't think you'd need something like that. But if you want something like that, I'll get you all you want. And the other side will get you all you want against.

Alderman O'Neil stated I don't think the citizens and young people of Manchester could be protected more than what our Police Department is currently doing. Alderman Roy touched on statistics. We've heard those numbers from our Police Department and it's a very, very successful program. We have no information on data from putting these residency requirements in place. If anything, I hope we leave here today recommending that we approve some funds or recommend that the Mayor approve some funding for the Police Department to take the compliance program to a higher level. I think that's in the best interest of the citizens of this City.

Alderman Sullivan stated I would just add to what my colleague Alderman O'Neil just said. We really need to look at the most effective way of addressing this problem. I think it's clear that, rather than creating another set of laws that could only complicate matters, not only for law enforcement but for social service providers in this City, we try and beef up our enforcement efforts here at the local level. I would also suggest, and direct this to Alderman Gatsas and Alderman DeVries, that we may want to talk to the state about trying to obtain some sort of enforcement assistance from the state authorities, as well. I don't know what kind of logistical or manpower assistance the State Police could provide, but I have to believe there may be a role for them to play in this in partnership with our own police here in the City.

Alderman Ouellette stated obviously the safety of children is of the utmost importance to everybody around the table and no one wants to take that lightly. I also would like to thank Mr. Pepino for all the information he has come up with. In my nine years on the School Board, this subject actually has never been brought up. I'm not certain why, because I think the School Board needs to hear from the Police Department on the efforts and success they're having in this area. I think I have to agree with my colleagues O'Neil and Sullivan in saying that I think the best way we could approach this is to be proactive instead of reactive. I think the Police Department is doing a good job and they're asking us to not only continue their efforts, but to expand the efforts and they're very successful. I, too, would like to see some more information if Mr. Pepino could come up with it in terms of raw numbers and facts in terms of repeat offenders. I think that would be important if we were to go forward with something like this. Right now, I'm inclined to take the advice of our police officers and have them move forward with what they're trying to do, which has been successful.

Chairman Shea stated any issue that comes up there is always a challenge as to how we handle it. Certainly the Police Department, as well as Leo Pepino, has brought attention to this particular matter. Obviously we've learned how the police operate, which otherwise we perhaps wouldn't have known as thoroughly as we do now, and I certainly appreciate their efforts. I know that both the police, Mr. Pepino, as well as other members of the Aldermanic Board, as well as the

School Department have the best interest of all concerned. We've tried to discuss this openly, also in an area that has called attention to various sides of the issue.

Alderman O'Neil moved to receive and file the draft ordinance and related documents regarding restrictions on registered sex offenders. Alderman J. Roy duly seconded the motion. There being none opposed, the motion carried.

Alderman O'Neil moved that the Mayor consider additional funding for the Police Department to take the compliance program to a higher level. Alderman Ouellette seconded the motion. There being none opposed, the motion carried.

### **TABLED ITEMS**

6. Communication from Alderman Shea proposing the establishment of a Manchester Crime Prevention Committee.  
*(Tabled 12/12/2006)*

This item remained on the table.

7. Report from Police and City Solicitor regarding commercial vehicle definitions, if available.  
*(Tabled 12/04/2007)*  
*(Note: Response from Deputy Public Works Director enclosed.)*

This item remained on the table.

There being no further business, on motion of Alderman Ouellette, duly seconded by Alderman J. Roy, it was voted to adjourn.

A True Record. Attest.

Clerk of Committee