

MEMORANDUM

TO: Public Safety Committee

FROM: Mary Costigan
Associate Corporation Counsel

DATE: October 9, 2008

RE: **Minutes of the Public Safety Committee Meeting held on September 9, 2008**

Councilor Marshall, Chair of the Public Safety Committee, convened the meeting at 5:30 p.m. with Councilors Duson and Donoghue present.

The Committee voted unanimously to approve the minutes of the July 8, 2008 meeting.

The Committee then took action on the following items:

Repeal of the Entertainment License Dispersal Requirement

Mary Costigan explained the information in the packet that was presented based upon requests made at the September meeting. Doug Fuss, owner of Bull Feeney's and member of the Old Port Nightlife Taskforce spoke regarding the TIPS training for bartenders that is recommended by NLOC. He said that NLOC recommends that bar and restaurant owners send their staff to Frank Lyons for TIPS training. He stated that NLOC supports the dispersal requirement and that it is all that PPD has left to disperse intoxicated individuals. They need enough room for the police to do their jobs. He noted that the distance began at 250 feet and that 100 feet was a compromise.

Erica Schmitz of 21 Reasons and the Old Port Nightlife Taskforce spoke in support of the dispersal requirement. She stated that the requirement was a result of a year-long process with the goal of protecting the Old Port. She said the requirement is a long term strategy and they need more time to measure its effectiveness. She stated that 21 Reasons co-sponsors and tries to subsidize the cost of server training and she mentioned the responsible bar management guidelines adopted by NLOC. She submitted information to the committee on alcohol outlet density.

Jo Morrisey of 21 Reasons stated that she owns a coffee house and that closing time for the store poses a risk for her employees due to the rowdiness in the Old Port. She said the strategy to address public safety issues should include the following: responsible management practices; certified server training; dispersal; compliance checks; and Council consideration of license renewals.

Eileen Wolf of 21 Reasons said that she is a resident of the West End and feels safe walking to the Old Port. She stated that if the dispersal requirement is repealed, the balance of the Old Port would fall apart. She would not like to see this happen, as she is considering moving closer to the downtown.

Jan Beitzer of the PDD stated that the PDD supports keeping the 100 foot dispersal requirement.

Councilor Donoghue stated that he is not happy with the policy, but that they need to find the real pill before they get rid of the placebo.

Doug Fuss stated that participation with people active in NLOC is 80%, which is about 60% of the bars in the Old Port. He said that most restaurants feel it is necessary to have TIPS training. He noted that it could decrease their insurance premiums. He said it is more important with bars because it can reduce their liquor liability insurance rates. He would guess that overall participation with bars is high. He stated that one problem is high turn-over. It is a challenge for restaurants to ensure that all of their employees are trained.

Councilor Donoghue said that he is interested in the idea of requiring licensing or certification for servers and wants to explore it further.

Councilor Marshall asked about the effect of the training on insurance rates. Doug Fuss responded that some say the decrease exceeds the cost of the training. He said, though, that in his case, it is not tangible.

The Councilors discussed changing the agenda heading of this item for the next meeting.

Councilor Marshall stated that he wants to know what the violent crime rates are within 100 feet of entertainment establishments and not just calls for service. He said that with regard to overcrowding, he is comfortable that the fire department is enforcing the limits. With regard to licensing servers, he said they might consider sending the issue to the legislative committee. He noted that the only significant difference he sees in the maps is that the Ice House disappeared. For the next Committee meeting, he asked to see the rate of violent crimes within 100 feet of entertainment establishments.

Councilor Donoghue stated that he would like to look further into the issue of whether the city can require the licensing of individuals.

Councilor Duson stated that she wasn't clear about what problem they were trying to cure.

Councilor Marshall stated that they were looking into issued involving the nightlife in the old port and they are concerned about over-serving from personal observations and from what they have heard from others.

Councilor Donoghue stated that bar management and training are factors. He stated that the 100 foot dispersal didn't solve problems and that he was willing to keep working on it.

Councilor Duson stated that the committee needed to focus on the problems they are trying to address.

Councilor Marshall stated that the committee had collected more data each time this issue had been brought up. He stated that he had met with Jo Morrissey. He also stated that over-serving is an issue they are trying to address.

Review of Ordinances Affecting Street Artists and Musicians

Councilor Marshall said he wanted to understand what's on the books. He stated that the misunderstanding regarding the dancers in the park has been resolved. He mentioned that amplification of sound was at the crux of the issue. Regarding disorderly conduct, he said the committee should look for something more specific.

Jan Beitzer of the PDD stated that the PDD didn't ask to open the discussion. She said that amplification of sound had drawn complaints from the retailers. She also stated that artists' tents have blocked store fronts.

Councilor Donoghue asked what specifically the issue was.

Councilor Marshall stated that the issue was the disruption caused by amplification of sound, street performers and dancers in Tommy's Park

Councilor Donoghue stated that he thought amplification was fine. To clarify, he thought the amplification should stay subject to sound limitations.

Councilor Marshall stated that the issue was more about noise than anything else.

Councilor Duson asked if there was a continuing misunderstanding.

Councilor Donoghue suggested brochures to address any misunderstanding.

Jan Beitzer stated that the PDD, when they produce their Arts Guide, can put a paragraph in addressing the sound issue.

Councilor Duson stated that the goal was to continue to encourage artists.

Review of Noise Ordinances and Noise from Permitted Activities on the Maine State Pier

Councilor Donoghue stated that he has fielded noise complaints, firstly from the patios' impact on residents and secondly regarding the Maine State Pier on the Sunday night m.o.e concert during the summer. He asked if the decibel level was appropriate.

Councilor Marshall asked what decibel levels are acceptable.

Jeanie Bourke of the Inspections Department stated that she is not a noise expert. She stated that it doesn't take much to elevate noise to the level of a violation. She said that traffic going by can be louder than the noise from the establishment the City is trying to regulate. She said the department has had pockets of complaints, but it's not a big problem. She stated the other pocket of noise complaints is at the intersection of Read Street and Canco Road, due to truck noise. She suggested the committee should hear from other noise professionals.

Councilor Donoghue asked Jeanie to ask her colleagues what level is appropriate for night life establishments. He noted the increasing presence of residential uses next to nightlife establishments, and would like confidence in decibel levels. He thought the ordinance might be too strict to be reasonably enforced. He stated he would also like a better sense of what standards are reasonable. He stated he wants a policy that bans festivals on Sundays.

Councilor Duson stated she would like to see the issue come up before the Council.

Councilor Donoghue asked if the Committee should give direction to the departments not to permit activities on Sundays? He stated he would like Ted Musgrave to be present at the next Committee meeting, and also that he would like information on decibel levels related to trucks, cars and conversation.

Jeanie Bourke stated that the odor ordinance has thresholds, but more than one complaint is required to activate a response.

Councilor Donoghue asked if the City gets a lot of complaints.

Jeanie responded that it's usually the same people complaining.

Councilor Duson stated she would hope the City responded to complaints. She stated she recalled that at one point there was a chart of ordinary things with decibel levels. She believed it came from the police department and that it was in relation to motorcycle noises.

Jeanie stated that decibel level readings are taken from the property line of the establishment. She said she would have a copy of the odor ordinance for the next meeting.

Councilor Duson stated she wanted information of the free expression of musicians. She said she preferred the enforcement of disorderly conduct rather than enforcement through decibel levels. She felt this gives artists a wider scope of behavior.

Councilor Donoghue stated that there was ambiguity about whether the issue was amp sound of street musicians. He stated that the disorderly conduct charge includes things beyond loudness.

Councilor Marshall stated that conduct that was not disorderly but still very loud should fall under the same rules.

Councilor Donoghue suggested it would be helpful to solicit suggestions as to how to approach or organize the rules.

Councilor Duson stated she wanted a conversation around constitutional restrictions.

Portable Sandwich Board Signs

The business owner was not there to speak about it, the Committee decided to leave it the way it is.

The meeting was adjourned at 7:00 p.m.