

CHILDREN'S HEALTH AND ENVIRONMENT COMMITTEE

DATE: March 24, 2005

CALLED TO ORDER: 6:00 p.m.

ADJOURNED: 8:28 p.m.

ATTENDANCE

ATTENDING MEMBERS

Angela Mansfield, Chair
Greg Bowes
Jim Bradford
Susie Day
Scott Keller
William Oliver
Steve Talley

ABSENT MEMBERS

AGENDA

PRESENTATIONS FROM A MEDICAL PERSPECTIVE

Ruth Altherr Rensch, MS, RN – cardiovascular nurse; President, Board of Directors
American Heart Association, Indianapolis Metropolitan Region

Stephen J. Jay, M.D. – pulmonologist; Professor of Medicine and Public Health;
Chair, Department of Public Health; Indiana University School of Medicine

Medical Student Council Resolution – Representatives from the Indiana
University School of Medicine Student Body

PROPOSAL NO. 45, 2005 - amends the Code by establishing nonsmoking areas
(Several public hearings are anticipated on this proposal before a recommendation is
made to the full Council. The proposal was postponed for action until May 5, 2005.)

CHILDREN'S HEALTH AND ENVIRONMENT COMMITTEE

The Children's Health and Environment Committee of the City-County Council met on Thursday, March 24, 2005. Chair Angela Mansfield called the meeting to order at 6:00 p.m. with the following members present: Greg Bowes, Jim Bradford, Susie Day, Scott Keller, William Oliver, and Steve Talley.

PRESENTATIONS FROM A MEDICAL PERSPECTIVE

Stephen J. Jay, M.D. – pulmonologist; Professor of Medicine and Public Health; Chair, Department of Public Health; Indiana University School of Medicine

Dr. Jay presented a brief Powerpoint presentation on the clinical effects of exposure to secondhand smoke. (Presentation is attached as Exhibit A.) He explained that there are several effects casually associated with secondhand smoke:

- 1) Carcinogenic Effects
 - a) Lung cancer
 - b) Nasal sinus cancer

- 2) Cardiovascular Effects
 - a) Heart disease mortality
 - b) Acute and chronic coronary heart disease morbidity

- 3) Developmental Effects
 - a) Fetal growth: low birth weight or small for gestational age
 - b) Sudden infant death syndrome

- 4) Respiratory Effects
 - a) Acute lower respiratory tract infections in children (ie: bronchitis and pneumonia)
 - b) Asthma induction and exacerbation in children
 - c) Chronic respiratory symptoms in children
 - d) Eye and nasal irritation in children
 - e) Middle ear infections in children

Dr. Jay said that epidemiological and statistical methods for determining disease and death rates attributable to smoking or secondhand smoke were developed in the 1940s and were used in the first Surgeon General's report on Smoking and Lung Cancer and in all subsequent Surgeon General reports on the subject. He

said that these methods are widely published in peer-reviewed science articles world-wide and are used by major science-based organizations around the world. Estimation of attributable morbidity or mortality requires knowledge of 1) the relative risk of specific disease caused by tobacco smoke, 2) prevalence of specific disease in the population, and 3) number of events attributed to secondhand smoke. For decades, the tobacco industry has tried to discredit the science of smoking attributable disease, both active smoking and secondhand smoke. He explained how establishing a "dose-response" relationship between exposure to secondhand smoke and disease is a powerful finding in the weight of evidence. He provided statistical graphs outlining the correlation between secondhand smoke and lung cancer, coronary heart disease (CHD), and acute stroke. He said that one in eight Indiana residents has asthma or chronic obstructive pulmonary disease (COPD). Many have acute or chronic symptoms of cough, wheezing, or shortness of breath when exposed to secondhand smoke, and therefore take active steps to avoid it. Many develop severe symptoms that require clinic or hospital treatment, and some episodes can even be fatal. He gave two specific case studies of secondhand smoke exposure which led to hospital visits, yet these individuals had no recurring episodes when they took measures to avoid exposure to secondhand smoke. Dr. Jay said that respiratory disease is widespread in Indiana and Marion County, and exposure to secondhand smoke can affect health and quality of living for both young and old alike. He said that creating smokefree public places will improve the lives of thousands of citizens who battle respiratory disease and can prevent secondhand smoke-related disease in many others.

Councillor Keller asked with regards to death certificates if smoking or secondhand smoke are ever listed as the actual cause of death and if any heart organizations claim that secondhand smoke is okay. Dr. Jay said that there is a practical problem with death certificates. The space to write the cause of death on a death certificate is very small, and therefore, doctors usually just write down the last event, such as cardiac arrest. He added that death certificates are done differently in different states, and an Oregon study showed that prior events leading to the final event should be included, such as smoking or diet. He said that unfortunately, death certificates are not designed to assess the prevalence of diseases. He added that all heart organizations would agree that secondhand smoke is detrimental to one's health.

Councillor Oliver said that the charts in Dr. Jay's presentation seem to suggest that a woman who quits smoking when she gets pregnant is still at risk due to secondhand smoke. Dr. Jay said that this is correct, and there are still risks associated with former behavior, which is exacerbated by the amount of secondhand smoke to which a person is exposed. He said that women who smoke during pregnancy have offspring that are at higher risk for certain illnesses. Children who have not been exposed to smoke in the womb but are exposed to secondhand smoke after birth also are more susceptible to these

types of illnesses. Therefore, it is not always necessarily a factor of a mother smoking during her pregnancy which causes such respiratory illnesses. Councillor Oliver asked if there is more exposure from a smoker in the home or from a visit to a restaurant or bar. Dr. Jay said that it depends on the number of smokers and how much they smoke. Some of the highest concentrations people are exposed to are in restaurant or bar settings.

Chair Mansfield said that Dr. Virginia Caine from the Marion County Health Department will be addressing this Committee at a later date with more information and statistics specific to Marion County.

Councillor Bradford asked if there are any of the 92 Indiana counties that list secondhand smoke as a cause for death on death certificates. Dr. Jay said that he does not know of any specifically as he has not studied that issue or done research on it. Councillor Bradford asked if this information should be considered in formulating statistics. Dr. Jay said that the death certificate is not a document that is designed to answer the question the Committee is dealing with at this time. Councillor Bradford asked if insurance companies base their coverage and distributions on this type of information. Dr. Jay said that this is correct, and this data is aggregated at various levels. He said that all of the national agencies and Surgeon General reports realize the problems associated with death certificate data. Councillor Bradford asked if Dr. Jay expects the certificates to change with more awareness of the effects of secondhand smoke. Dr. Jay said that he fully expects that it will, and there are some states that already include a series of questions to reach a final cause of death. There is a lot of effort nationally and on a state level to improve these certificates. Councillor Bradford said that one of Dr. Jay's charts showed that there were 32,000 deaths associated to secondhand smoke. He asked how many deaths are attributed to obesity. Dr. Jay said that there are approximately 300,000 premature deaths in the United States attributed to obesity. Councillor Bradford asked then if people who are overweight would not then be a priority over secondhand smoke, since ten times the amount of people die from obesity-related disease than from secondhand smoke exposure. Chair Mansfield said that the difference with obesity and secondhand smoke is that obesity is a personal action, but secondhand smoke-related disease is not related to any action of the individual, but the action of those around them. Councillor Bradford said if a parent is overweight and gives their child fast food and unhealthy food choices, there are no laws against that. He said if he feeds his child McDonald's every day of the week, Child Welfare could not take his child away for breaking any laws.

Councillor Bradford asked if asthma is sometimes hereditary. Dr. Jay said that it can be familial, but genetics have not yet been determined. Councillor Bradford said that people with asthma can also experience episodes when exposed to pollen or other irritants. Dr. Jay said that this is correct. Councillor Bradford said

that ozone layers, grass cuttings, or other pollutants are not banned. Dr. Jay said that the good news about the studies that he referred to is that all of those factors are taken into consideration. The scientists control for atmospheric air pollution, ozone, pollen count, etc. so that they can quantify the effect of secondhand smoke independent of those other factors.

Councillor Bradford referred to the two case studies and asked if either of these individuals were overweight or had any history of anxiety or depression. Dr. Jay said that neither were overweight, but he is not sure of anxiety history. Councillor Bradford said that when people enter a room with 45 people, they could experience more of an anxiety attack due to overcrowding than be bothered by secondhand smoke. Dr. Jay said that an asthma attack that brings a person near death is a lot different from an anxiety attack. Councillor Bradford asked if one night's exposure to smoke would put someone near death or if these other factors, such as weight and anxiety, might contribute to that. Dr. Jay said that he has seen asthmatics go from breathing normally to writhing in agony on the floor within 30 to 40 seconds of exposure to smoke. Councillor Bradford asked if they could not have that same reaction to freshly cut grass. Dr. Jay said that people that have a predilection for asthma are usually not sensitive to just one trigger and therefore could have reactions to other stimulants. Councillor Bradford said that there are so many things that can affect asthma, including pollen count, anxiety, and mold, and all of the responses should not be attributable to secondhand smoke. He said that he does not believe smoking is good for a person's health, as his father died from smoking-related disease. However, he does not feel that secondhand smoke will kill someone through limited exposure found briefly in a restaurant or bar.

Councillor Bowes said that Councillor Bradford is not a doctor, and Dr. Jay has explained that there are controls used in these studies to isolate this data so that the effects are directly related to secondhand smoke exposure. Dr. Jay said that this is correct, and these are controlled studies that prove the effect of smoking and secondhand smoke on health, taking into account other factors. Councillor Bowes said that many are concerned that there is a 100% certainty with scientific statistics that secondhand smoke is harmful before taking action on this issue. He said that 100% certainty on anything is very rare, and he asked Dr. Jay if he is comfortable making life or death decisions based on the information available. Dr. Jay said that it is difficult to determine with 100% certainty that one thing causes another. However, in the case of secondhand smoke, scientists and doctors have the ability to measure carcinogenic substances in the bloodstream and urine of nonsmokers exposed to secondhand smoke. These substances have been shown in independent studies to cause cancer. As a clinician, there are very few areas in medicine where there is more compelling data as to risks than those caused by smoking or secondhand smoke. A one-pack-a-day cigarette smoker has a 1,500% increased risk of death from lung cancer than a

nonsmoker. There are very few areas in clinical medicine where doctors see such a dramatic risk associated.

Councillor Bradford asked again if obesity leads to death. Dr. Jay said that it can be a contributing factor. Councillor Bradford asked if carbon monoxide from cars can eventually lead to death. Dr. Jay said that air pollution is causally related to increased mortality. Councillor Bradford asked if power lines or cell phones could also be contributing factors to death. Dr. Jay said that he has no data to support that.

Chair Mansfield asked for questions from the public related specifically to Dr. Jay's presentation. She stated that there will be public forums beginning on March 30, 2005 for more general comments.

Bruce Fox, citizen, asked with regards to the two case studies if either individual might have eaten something that would have caused some type of allergic reaction or asthmatic attack. Dr. Jay said that neither of these individuals had a recorded food allergy. Mr. Fox said that it might be a new food that they did not know they were allergic to, and asked if these individuals were asked if they ate something different. Dr. Jay said that these individuals had dealt with asthma for some time and knew that the exposure to smoke was the reason for their episode. Mr. Fox said that the same type of episode could have occurred for another reason. Chair Mansfield said that the source of these individuals' episodes were determined by their clinical doctors who were familiar with their medical issues.

Merle Roberts, citizen, said that Ozzie Nelson of the television series "Ozzie and Harriet" was dying of cirrhosis of the liver, and he asked his wife why he was dying of cirrhosis of the liver when he had never drunk or smoked. He said that everyone will die sometime and cause of death cannot always be determined.

Ruth Altherr Rensch, MS, RN – cardiovascular nurse; President, Board of Directors, American Heart Association, Indianapolis Metropolitan Region

Ms. Rensch stated that she is the current president of the American Heart Association metropolitan region board for Indianapolis. She was born on a farm in Tipton County, Indiana and has been a resident of the city of Indianapolis since 1972. She graduated from Indiana University School of Nursing and began taking care of patients whose lives had been drastically changed by heart disease. Over the past 25 years, she has seen advanced research and technologies that have allowed health care workers like herself to save lives. She added that now the Council is in a position to help save lives, as well. Constant exposure to secondhand smoke, whether in the workplace or in the home, nearly doubles the risk of having a heart attack in nonsmokers. She said that the American Heart Association is committed to this issue, as well as to others such as obesity and lack of physical activity, and are working on all of those areas with as much

energy as they have to share. Five minutes of exposure to secondhand smoke stiffens the aorta so that the heart has to work harder to pump blood. This is the same amount of exposure as smoking one cigarette. Secondhand smoke is the third leading cause of preventable death in the United States and the number one trigger of asthma attacks. Twenty minutes of exposure to secondhand smoke is equal to smoking one pack of cigarettes and results in sticky blood platelets which again increases the chance for heart attack. Thirty minutes of exposure has the same effect on the coronary arteries as a regular smoker, which affects the ability of the artery to open or dilate during times when a person needs more or less blood supply to the heart muscle. Two hours of exposure to secondhand smoke can cause irregular heartbeats, which can lead to an arrhythmia or a heart attack. She relayed a personal experience regarding a 42-year-old father who died of a heart attack. She said that as a nurse, it was part of her job responsibility to sit with his wife and console her. The wife's smoking habit of two packs per day and the carcinogens she released in their home helped to kill her husband. The overwhelming guilt and grief the wife experienced at his death was unspeakable, and she became smokefree in order to save her children from the same fate as their father. The choice to smoke is a personal one, and is not what she is here to talk about today. The issue is when a person who has chosen not to smoke is exposed to secondhand smoke, which then has an effect on their personal health. Over 950,000 Americans die prematurely each year from cardiovascular disease. The American Heart Association's (AHA) research estimates that secondhand smoke causes over 37,000 preventable deaths each year, which would be like wiping out the student body at Indiana University.

Ms. Rench said that secondhand smoke does not just affect people in their homes, but also in their workplace. In today's economy, not everyone can choose to walk away from a paycheck. This proposal asks the Council to help protect these people who are exposed to deadly carcinogens for hours and hours every day, year after year. A study shows that people who are exposed to heavy levels of secondhand smoke in their workplace have the same risk as someone who is a light active smoker. She said that those in opposition to this concept have the feeling that it will hurt the economy or hurt their business. However, there is evidence that shows this is not the case. New York recently went smokefree. She provided a six-minute video which gave testimony from New York residents and business owners who are now happy with the smokefree act and have found that it did not have the negative effect they thought it would on their sales and revenue. [Clerk's Note: A link to this video can be viewed on the Americans for Nonsmokers' Rights website (www.no-smoke.org).]

Councillor Bradford asked where Indiana rates with AHA in regards to residents who smoke. Ms. Rench said that Indiana is in the top ten, and she believes they are currently fourth in the nation for high smoking rates. Councillor Bradford asked about the ranking for obesity. Ms. Rench said that she knows Indiana is very high. She agreed that the state of Indiana has one of the highest rates of stroke, as well as heart disease, and they have many issues to address. Councillor Bradford asked if fraternities and sororities in Bloomington are required to be smokefree as a result of their smokefree act. Ms. Rench said that she does not know the answer to that.

Councillor Bradford asked how long it takes to smoke a cigarette. He asked if it only takes 10 minutes to smoke one cigarette, how can 20 minutes of exposure to secondhand smoke be like smoking a pack of cigarettes? Ms. Rench said that the 20 minutes of exposure to secondhand smoke relates to the equivalent effect of a pack-a-day smoker. Councillor Bradford asked if this secondhand exposure refers to one smoker in the room or more than one smoker. Ms. Rench said that she does not have exact statistics on the number of smokers. Councillor Bradford said that if it only takes 10 minutes to smoke a cigarette, does it not make sense that 20 minutes of exposure to secondhand smoke would be more like smoking two cigarettes. Ms. Rench said that the effects on a first-hand active smoker are different from those produced by secondhand smoke. Councillor Talley said that he smoked briefly in the Marine Corps and could smoke a cigarette in a minute and a half, so this time correlation may not be accurate. Ms. Rench said that this comparison is simply saying that if you are a nonsmoker who is exposed to 20 minutes of secondhand smoke every day, it is comparable to the health effects on a pack-a-day smoker. Councillor Keller said that spending 20 minutes in an establishment with heavy smoke, such as a bar, would be the equivalent effects as a person smoking 20 cigarettes throughout the day.

Councillor Oliver said that although a death certificate may indicate cardiac arrest as the cause of death, smoking and other factors could have a domino effect on that outcome. He said that smoking seems to get most of the blame, whereas there are other factors, such as family history and diet that contribute. Ms. Rench said that this is correct, and she does not have those statistics with her this evening. She added that certain risk factors add more to the increased risk of heart-related diseases. She said that obesity, diabetes, family history, hypertension, and smoking all have added effects. Of all of them, however, secondhand smoke is the one piece that is brought on by others' actions and not an individual choice. She said, however, that the AHA is working on all of these issues.

Chair Mansfield said that the proposal that is before the Committee deals specifically with the effects of secondhand smoke and does not deal with these other issues. She asked members and the public to speak specifically to health issues that relate directly to the proposal.

PROPOSAL NO. 45, 2005 - amends the Code by establishing nonsmoking areas
(Several public hearings are anticipated on this proposal before a recommendation is made to the full Council. The proposal was postponed for action until May 5, 2005.)

Councillor Bowes said that he has consulted with many individuals, taken into account editorials in the *Indianapolis Star*, and reviewed the position statement provided by the Greater Indianapolis Chamber of Commerce, which is a result of the hard work of their task force created to study this issue. He moved, seconded by Councillor Talley, to "Amend" Proposal No. 45, 2005 with a substitute version of the proposal.

Councillor Bowes outlined the proposed amendments. He stated that there were concerns that the ordinance went too far and proposed to regulate outdoor areas. He said that the substitute version eliminates much of the language dealing with smokefree outdoor areas, such as outdoor designated smoking areas, ATM lines, bus stops, taxi stands, and outdoor areas where food or drink is sold. He said that there was also a lot of concern about public parks and the effect on children of seeing examples of smoking, as well as being exposed to secondhand smoke, and using tax dollars to clean up the litter from cigarette butts. He said that there was a strong outcry that banning smoking in an outdoor park, however, had gone too far, so this amendment eliminates that restriction. He said that Councillor Bradford's concerns about the 50-foot protected area around an entrance or exit to a building was taken into consideration. He said that he walked down Washington Street the other day and counted the distance from one building entrance to another, and the concerns are valid, as the distance was usually well short of 50 feet. This proposed amendment reduced that protected area to 10 feet. Outdoor seating areas provided by a bar or restaurant are still covered by this proposal, unless there is no roof structure, in which case an exemption has been provided. He added that the other proposed change takes into account those nightclub establishments that are clearly where people go to smoke, such as a tobacco bar or cigar and martini bar. These are labeled as tobacco bars in the ordinance and a definition is included to qualify such establishments. He said that the only other language change was that if an establishment is in a position to claim an exemption, they would have to provide written proof that they meet the qualifications for exemption to an inspection authority. Councillor Bowes said that he hopes this amended language helps to address the concerns of many individuals and business owners.

Chair Mansfield said that she personally would prefer that public parks remain covered by the ban, but it is important to recognize that in order to get this accomplished in the community at this time, they are being eliminated. She said that she has heard many concerns about this issue but realizes that to be successful with this ordinance, some compromises need to be made. She added that with regards to the tobacco bar, the key requirement is that tobacco products be purchased in the establishment and make up a certain percentage of sales. She said that this makes these establishments very similar to a retail tobacco shop.

Councillor Bowes said that there has been concern over the proposal's adverse economic effect on some establishments. He said that they will continue dialogue both formally and informally to address concerns that arise. He said that some may feel this amendment does not go far enough, but the dialogue has not ended, and there may still be some other issues that need to be addressed.

Councillor Bradford asked when this amendment was prepared. He said that he spent three hours with Councillor Bowes this morning, and wonders if the amendment was available for him to review at that time. Councillor Bowes said that he has been in discussion with several people for weeks on this proposal. With regards to this particular amendment, he took his first stab at the language late last night, but did not

complete it until approximately 5:00 p.m. this evening. Councillor Bradford asked who worked on that language with him. Councillor Bowes said that he had dialogue with other sponsors and members of the industry.

Councillor Bradford said that he cannot support this amendment. He said that the language in the proposal with regards to the Americans with Disabilities Act (ADA) is not really appropriate, as someone with asthma might have problems in any environment, and would not frequent a place where smoking was allowed. Councillor Bowes said that this amendment does not include any changes to the original language that references the ADA, and therefore that discussion is not germane to his motion.

Councillor Bradford referred to the definitions section and asked what a Type 210 license is. Councillor Bowes said that it is his understanding that this is a license to sell beer, wine and liquor within city limits. Councillor Bradford asked what a 209 license is. Councillor Bowes said that he understands that is a license issued to anyone outside the corporate city limits. Councillor Bradford asked if Councillor Bowes knows what a 215 or 214 license is. Councillor Bowes said that he does not know. Councillor Bradford said that these deal with hotel licenses inside and outside the city limits. Councillor Bradford said that this new language implies that it is okay if a business owner has a three-way liquor license inside the old Fire District of Indianapolis. Therefore, any establishment outside of the old city Fire District limits that sells tobacco products would not meet the definition. Nor would a restaurant that sells tobacco products but does excessive amounts of food sales, because their tobacco sales are not 10% of their total sales. He said that this language basically exempts one bar, and he asked if other bar owners who sell tobacco products were consulted on these amendments.

Councillor Bowes said that there is a motion and second on the floor to "Amend" Proposal No. 45, 2005, and Councillor Bradford's questions about who was involved in drafting the amendment are not the issue at this point. He said that the process will continue, and the substance of the amendment should be the only thing up for discussion at this time.

Councillor Keller said that he is not an expert on the types of liquor licenses, but it is not his intent to exclude someone outside of the old Fire District. He said that he would be in favor of looking at this to include other types of licenses so that no one business is favored over another. He added that the 10% of sales requirement came from New York's smokefree act, and it is not his intent to put someone out of business whose core business is selling tobacco products.

Councillor Day asked if there is only one tobacco bar. Chair Mansfield said that she is not a frequenter of tobacco bars so she does not know if there is only one in existence or not. She added that the sponsors wanted to come up with criteria to insure that those who make their living off of tobacco sales would be exempt. Councillor Bowes said that he does not know how many establishments fit within this definition, but he

was careful to put the definition in a category so that any establishment meeting the criteria would be allowed the exemption, instead of just naming specific establishments. He added that Councillor Bradford referred to a restaurant which might sell tobacco products but not meet the 10% of sales criteria. He said if a business is only doing 1% of their sales in tobacco, then they are not a business that is at risk of losing their business without this exemption. He said that this definition is to cover a business that is specifically designed around the sale of tobacco items. He said that it would ultimately be up to the full Council to determine if that percentage should be higher or lower. He said that this criteria would keep businesses from selling one pack of cigarettes a day in order to prevent going smokefree. This exemption is for businesses that are focused on tobacco use and sales.

Councillor Oliver said that the original intent was to protect the health of children, who cannot always make decisions for themselves. He asked if it would be too far to go to just say that smoking is prohibited anywhere children are allowed legally. Anywhere children are not allowed, such as bars, could decide for themselves based on the demand of the marketplace. Chair Mansfield said that although this Committee's name is the Children's Health and Environment Committee, this does not mean that every issue they deal with only applies to children. The smokefree air act was actually designed to benefit workers in the workplace. Councillor Bowes agreed and added that this is a decision about protecting the entire community, and not just children. This proposal takes into account protection for workers in offices, restaurants, bars, and factories, as well as patrons who want to frequent these establishments. He said that the real question is where the line should be drawn as to how much action should be taken to protect the community and which segments of the community should be protected. He said that part of that question includes how intrusive the government should be and whether or not there is a good reason for intrusion. He said that this proposed amendment does not preclude any further amendments, but simply proposes to narrow down the focus of what was admittedly a broad ordinance.

Councillor Bradford said that he is a member of this Committee and he represents a district called Broad Ripple that is six minutes away from the Hamilton County line. Every new liquor license issued in Broad Ripple requires a family room. If Councillor Oliver's suggestion is accepted, all of these establishments would change to over-21 establishments and then family eating options in the area would be extremely limited. He said that individuals keep comparing this ordinance to New York and Florida, but those are entire states. By outlawing smoking just within the city limits, many businesses may relocate to surrounding areas where smoking is allowed. He said that limiting this ordinance to places where children are not allowed will force businesses to offer service only to those 21 and older, and then children may not ever be able to visit a place like St. Elmo's Steak House. He said more communication is needed, and not all Committee members have been included in discussions. He said that he cannot support this ordinance because he just received it and has not been able to review it adequately. He added that there are restaurant and convention center representatives whose views should be taken into consideration. He said that three of the public forums

are scheduled within 8 days of each other at 5:00 p.m. during spring break, and he will not be able to attend. Then one final forum is scheduled for April 14, and a vote is scheduled before the Indianapolis 500 and the Brickyard 400. He said that he thinks the Committee should scale back and take a breather to have more input on the drafting before moving forward. He said that most of these Committee members are new Councillors, and he feels the process should not be so rushed.

Chair Mansfield said that she has heard Councillor Bradford both publicly and personally make the statement that he does not care how the proposal is amended, because he will not vote to pass it anyway. Councillor Bradford said that he indicated that he may vote the proposal out of Committee, but he will vote against it on the Council floor. He said that he does not believe the government has a right to tell him as a business owner what to do. He said that ten times the amount of people in this country are dying from obesity than what are dying from secondhand smoke, and priorities are wrong in his opinion. He said he spent quite a bit of time speaking with Councillor Bowes this morning, but after watching a movie called "Supersize Me," feels there are other more important issues. He said that the health community and restaurant community should be part of these types of amendments which are brought before the Committee in such a short period of time that there is no time for review.

Councillor Bowes said that it is correct that he spent some time with Councillor Bradford, who is asking Committee members to be more communicative with him. However, how should Committee members feel encouraged to be communicative when Councillor Bradford openly and publicly admits there is no way the ordinance can be changed to his satisfaction? Therefore, why would the sponsors spend time communicating with someone whose mind is made up, when there are plenty of other people who are willing to listen and give constructive input into how this ordinance can best meet the needs of the community? He said that Councillor Bradford is only one member of a community and one view, and just as one of Councillor Bradford's constituents told him this morning that he did not represent her views, so he does not represent the views of the entire Council.

Councillor Talley said that there is a lot of passion about this issue. He said that Councillor Bowes' amendment shows some flexibility and lets people know that the Committee is listening to the testimony given. He said that Councillor Bradford has the right to support or not support the proposal, as he has said. He said that he hopes to hold a Children's Health and Environment summit in Councillor Bradford's district at the Glendale Mall that will address some of the other issues raised by Councillor Bradford this evening. Councillor Bradford said that he would be glad to help with that as long as he can be informed as to the dates and location before it happens. He said that communication needs to happen with all members and with people in the hospitality industry, because this affects their livelihood. He said that including only one type of liquor license in this amended version shows ignorance and reinforces that there was no communication involved. Councillor Talley said that he does not believe it was a matter of ignorance, but that there is a need for communication. He stated that they are

just now forming the ideas for the summit, which will not take place until August, and he will make sure Councillor Bradford is fully informed.

Councillor Keller said that there have been a lot of e-mails, phone calls, and discussions on this issue outside of the public hearings. He said that with all of the input he has received, he feels very comfortable with this amendment. He said that all members are willing to listen and respond, and he suspects the proposal will be amended again before its final passage. Given the input they have had so far, he feels it is responsible to amend the proposal at this time. He said that dialogue will not be cut off with the industry or anyone else, and further amendments can come at a later time.

Councillor Bowes' motion to "Amend" Proposal No. 45, 2005 carried by a vote of 5-2, with Councillors Bradford and Day casting the negative votes.

Councillor Bradford said that more people need to participate in the process, and a lot of people have been excluded. He said that the state of Indiana allows 18-year-olds to work in establishments that serve alcohol because there are not enough people to work in these places. State law also allows performers in gentlemen's clubs who are under the age of 21, yet this ordinance would change that. He said that they need to be careful when drafting these types of ordinances and not base it solely on the medical perspective.

[Clerk's Note: Councillor Talley left at 8:04 p.m.]

Chair Mansfield asked for public questions with regards to the materials presented by Nurse Rench.

Joe Wilson, citizen, stated that he has attended all of the Committee's meetings. He said that he believes the Committee is on the right track by making some compromises. He added that most taverns are required to have tobacco permits now, and the Committee may want to look into that requirement to see how it relates to the ordinance.

Chair Mansfield stated that Dr. John Pless is another medical representative that became available after the agenda for this meeting was already posted. Councillor Bowes said that he was the one who asked Dr. Pless to share some of his insight. He asked Dr. Pless to share his background and experience and share his comments about death certificates and the links between cause of death and contributing factors. Dr. Pless said that he is a forensic pathologist who has spent 40 years examining people who are victims of a variety of environmental problems in the community. He said that only the conclusive findings such as emphysema, coronary artery disease, or lung cancer, are actually included in an autopsy report, but they could be clearly correlated with a history of smoking. Councillor Bowes asked if there is a difference between a death certificate filed with the health department and what might be included in an autopsy. Dr. Pless said that there is. He said that the death certificate has the ultimate cause of death, and it is possible a physician might list exposure to cigarette

smoke as a contributory cause. He said that an autopsy report lists only the findings in the surgical examination of the body and conclusions as to manner of death, such as carbon in lungs, excessive secretions, cystic cavities, or damage to coronary arteries. He said that all of these findings indicate exposure to smoke and they would ask about that exposure history.

Councillor Bradford asked if these reports would also note depression or obesity. Dr. Pless said that these factors might be listed in the medical history of the person, but would not be listed in the actual findings. Councillor Bradford asked if insurance companies base their payout rates on autopsies or death certificates. Dr. Pless said that they are going to base that information on the specific history of that individual, and smoking or nonsmoking is one of the criteria. Councillor Bradford asked in a case where an individual is overweight, is a smoker, and has a history of depression, if that information is taken into account in the autopsy report. Dr. Pless said that obesity is listed as a finding on an autopsy report, whereas smoking history is not. Councillor Bradford used the example of a worker in an Indiana toll booth. Although this person may not smoke, he asked if their exposure to carbon monoxide would show the same kinds of findings. Dr. Pless said that it would probably not show up on a toll booth worker, but if a person worked in a garage with poor ventilation, they could show the same findings.

Councillor Oliver asked for a definition of natural causes, which might be listed on a death certificate. Dr. Pless said that homicide is when one person is responsible for the death of another, suicide is when a person takes their own life, accident is when something on the outside caused death suddenly and unexpectedly, and natural is everything left over and includes disease inside the body. He said that this does not necessarily take into consideration the matter of a person's lifestyle.

Councillor Bowes said that the conversation earlier revolved around there possibly being a whole set of factors causing death. He asked if a forensic pathologist can distinguish between one factor or another and determine the true cause of death. Dr. Pless said that there is no way from the autopsy itself to make that determination. A person's medical history must be used to make that determination. Councillor Bowes asked if once the history is examined, if one or another potential cause can then be ruled out. Dr. Pless said that because smoking causes a multitude of diseases, if an individual has more than one of those diseases, the likelihood is pretty significant that the individual was a smoker.

Councillor Bradford said that he has attention deficit disorder and takes Ritalin and is therefore more susceptible to other vices if he does not control his medical condition. He said that the point he is trying to make is that there are many factors that determine a person's life expectancy, and inherited susceptibilities also play a part. He said that he does not believe smoking is good for anyone, and he hated that his father was a smoker. That is one of the reasons his restaurant is non-smoking, but it was his choice, and it should be a matter of choice.

Chair Mansfield said that discussion this evening referred to the Chamber of Commerce's position, and she asked Mark Fisher, business advocacy manager for the Chamber, to comment on the amendment. Mr. Fisher said that their position supports a ban with limitations, and this amendment does not address their concerns. He said that the Chamber formed a task force of volunteer members to decide what position to take, and the outcome was unanimous. He said that he would like the opportunity to bring their members and volunteers before the Committee to discuss their position. He stated again that this amendment does not address their concerns. Chair Mansfield asked if the amendment addresses any of the Chamber's concerns. Mr. Fisher said that it addresses only the retail tobacco stores and cigar bars. Chair Mansfield said that the amendment also includes changes regarding the Chamber's concerns about service lines at ATMs and other outdoor venues. Mr. Fisher said that their position is that they want no regulation of any outdoor areas.

Medical Student Council Resolution – Representatives from the Indiana University School of Medicine Student Body

Jeff Wells, Andrew Bridges, and Becky Epstein, fourth-year medical students at the Indiana University School of Medicine (IUSOM), introduced Anthony Harris, president of the Medical Student Council and author of the resolution. Mr. Wells said that as future medical caregivers, they wanted to present a resolution to the Committee this evening because of their concern for the health of their community today. Mr. Harris stated that they want to present the voice of students in the medical field with regards to this important issue. He read the resolution for the Committee and those in attendance (attached as Exhibit B).

Councillor Bradford asked how many medical students there are. Mr. Harris said that he represents 1,000 students. Councillor Bradford asked why there are only 18 votes. Mr. Harris said that these are voting student council members. Councillor Bradford asked how many of these 18 voting members are nonsmokers. Mr. Harris said that he is not sure but knows that at least one is a smoker. Councillor Bradford asked if the council has a resolution for obesity and alcohol use as well. Mr. Harris said that he began as president in January and he instituted the idea of resolutions with his administration, and this is the first one issued. He said that they will look at other issues and resolutions throughout the year. Councillor Bradford asked if this is the first resolution in the history of Indiana University. Mr. Harris said that he cannot testify to that, but this is the first one for which he has seen documentation. Councillor Bradford asked if he could then expect one for obesity, since that health hazard is ten times as deadly. Mr. Harris said that he cannot speak on measures that have not yet been before the council. Councillor Bradford asked if the 18 members are elected by the entire council body of 1,000. Mr. Harris said that this is correct. Councillor Bradford asked what percentage of the members show up to vote for the council. Mr. Harris said approximately 80% show up to vote.

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Chair Mansfield thanked the students for their presentation and stated that the next meeting will be a forum open to the public on March 30, 2005 at the Pecar Health Center at 6940 North Michigan Road at 5:00 p.m. She encouraged the public to contact their Councillors with their views on this ordinance.

There being no further business, and upon motion duly made, the meeting was adjourned at 8:28 p.m.

Respectfully Submitted,

Angela Mansfield, Chair

AM/ag