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COMMUNITY DEVELOPMENT COMMITTEE MEETING
Tuesday, September 9, 2003

PRESENT: Alds. Becker, Ecks, Heins, Herzog, Kopischke, Krol, Sullivan, Treis -8

ALSO PRESENT: N. Welch, Community Dev. Dir. ; A. Kesner, City Atty.; E. Miller Carter, Asst. City Atty.; L. Nielsen, Public Health Nurse Supv.; C. Anderson, Public Health Specialist

Ald. Heins in the Chair called the meeting to order at 8:02 p.m.

Land Combination – 6524 Romona Avenue

Ms. Welch outlined a request by Dorothy Bunke for a land combination in the AA Single Family Residence District at 6424 Romona Avenue. The applicant would like to combine two adjacent 30-foot parcels and construct a detached garage on the vacant parcel. The Plan Commission unanimously recommended approval. Ms. Bunke was present and confirmed the foregoing information.

Moved by Ald. Treis, seconded by Ald. Ecks to recommend to Council approval of the land combination. Ayes: 8

Conditional Use – 7215 W. North Avenue

The committee reviewed a request by Ceis Farnia and Navid Vafaei for a Conditional Use in the AA Business District at 7215 W. North Avenue to sell secondhand merchandise. The Plan Commission unanimously recommended approval. Ms. Welch reported that the applicants operate a home furnishing store that handles high quality antique furniture and Persian rugs.

David Geisthardt, Director of the Wauwatosa Economic Development Corporation (WEDC) was present representing the applicants. He spoke of the quality merchandise handled by the store and the outstanding addition it has been to the mix of businesses on North Avenue. He requested approval of the Conditional Use. Ald. Bruderle-Baran also spoke in favor of the request, stating that this is exactly the type of business that encourages strolling the avenue and stopping at different shops. Ald. Becker agreed with the previous comments.

Moved by Ald. Becker, seconded by Ald. Treis to recommend to Council approval of the Conditional Use. Ayes: 8

Conditional Use – 9200 W. Connell Avenue

Ms. Welch reviewed a request by Timothy Birkenstock for a Conditional Use in the Medical Center and Institutions District at 9200 W. Connell Avenue to construct a 1,600 spaces parking structure for Children's Hospital of Wisconsin. This is the first phase of a planned expansion. The proposed site is at the southwest corner of an area

currently used for surface parking. The Plan Commission unanimously recommended approval with several contingencies including receipt of better utility information for the site and review of final plans by the engineering department.

> Moved by Ald. Treis, seconded by Ald. Kopischke to recommend to Council approval of the Conditional Use contingent upon applicant providing staff with utility information and a storm water permit, reviewing plans with the engineering department, and meeting the parking requirements –

Questions were raised about future expansion plans and the relative height of the proposed parking structure. John Oswald, representing Children's Hospital, said a master site plan has been reviewed with Ms. Welch but the focus at this point is on phase one. He indicated that the structure would actually be lower in height than the current hospital since its floor-to-floor heights are lower.

Ms. Welch reported that some details still to be worked out are dependent on whether the hospital continues to lease the site from the county or purchases it, in which case the city becomes responsible for services. Mr. Kesner reported that the city collects storm water fees for the leased properties on the county grounds, although the county does pay them under protest.

Ald. Krol asked if a private security arrangement would cover any parking structure incidents. Mr. Oswald said that security personnel at Children's Hospital do not get involved in writing tickets; they call upon the sheriff's department. Mr. Kesner added that turning over the county grounds policing function to the city is still under discussion and will probably be before this committee at its next meeting.

> Vote on the motion, Ayes: 8

Conditional Use – 10200 W. Blue Mound Road

Ms. Welch reported that the applicants, Rick Johnson of San Camillo and John Gettrust of Sprint Spectrum, are requesting a Conditional Use in the AA Institutions District at 10200 W. Blue Mound Road to install telecommunications antennas and equipment. They plan to install six new PCS panel antennas and a new GPS antenna on the roof of San Camillo. The antennas and equipment would not be visible from the ground. The Plan Commission unanimously recommended approval.

Atty. Claude Krawczyk, 111 E. Wisconsin Avenue, Milwaukee, representing Sprint Spectrum, said that this installation is a good situation for San Camillo, Sprint, and their customers. In response to a question, he provided a drawing showing the side elevation of the installation. The antennas extend above the roof level, he noted, but are set back several feet from a large parapet wall. They are about 6 inches wide and 4 ½ feet tall. There is a similar installation at the Lutheran Home, but those are visible from street level unlike the proposed installation which may be visible only from some distance.

In response to a question about personal property taxes on antennas, Mr. Kesner said he believes they would be subject to that tax. Mr. Krawczyk added that a state law exempting them was repealed several years ago.

> Moved by Ald. Treis, seconded by Ald. Kopischke to recommend to Council approval of the Conditional Use. Ayes: 8

Conditional Use – 8700 Watertown Plank Road

Ms. Welch outlined a request by William Heinlein and Keith Nygren for a Conditional Use in the Medical Center and Institutions District at 8700 Watertown Plank Road to construct a 48,000 square foot addition to Wisconsin

Athletic Club. She noted that this request is in lieu of a 36,000 square foot addition approved several months ago. At that time concerns were primarily about parking and potential impact on the nearby woods. Ms. Welch noted that the addition would provide a rear entrance that would encourage use of parking to the rear (north) of the building, making it unnecessary to install additional parking otherwise required by ordinance. There is a plan for providing that additional parking if it is determined to be necessary. Ms. Welch suggested consideration of a six-month or one-year review to determine whether those spaces should be constructed. She indicated that complete information lacking at the time of her September 5, 2003 memo on this subject has now been provided. The Plan Commission unanimously recommended approval.

Bill Heinlein, 10909 W. Blue Mound Road, said that the additional square footage will help accommodate the intended uses as well as the entrance from the north. They have been able to secure 40 additional parking spaces from the Medical College, achieved by moving barricades in the north lot. The fitness center accounts for about 19,000 square feet of the addition, sports medicine an additional 9,000, and new plastic surgery offices about 9,000 square feet.

Ald. Krol indicated his support based on the facility's track record of quality development. It does not seem that the development will encumber the property, he said.

> Moved by Ald. Krol, seconded by Ald. Kopischke to recommend approval of the Conditional Use contingent upon review of parking conditions six months following completion of construction; obtaining proper licensing and permits; and water quality, storm water, and drainage issues being addressed –

Ald. Sullivan commented on the sizable north parking lot and his concerns about adding to it. He requested further explanation of the need to increase the size of the addition to the building.

Mr. Heinlein said that certain uses, including the fitness center and sports medicine facility, want to maintain their presence on the same level they currently occupy, which increases the necessary square footage of the second floor, leads to more first-floor space, and expands the footprint by about 6,000 square feet. They were not previously aware of the sports medicine facility's specific needs for a certain length of space. Also, in the meantime, the plastic surgery unit came to them with a new use, and there has been some mention from the Medical College that another office would like some additional space. Mr. Heinlein said the applicants would like to build without adding any more parking but would come back and seek more spaces if they can't get adequate spaces from the Medical College.

Ald. Sullivan explained his concern about creeping, incremental development whereby we do not recognize the area in 30-40 years. He wanted to be sure the plan is up to speed now and the 48,000 square foot addition will do what is desired. He indicated agreement with holding off with the 40 additional parking spaces until absolute need is determined.

Mr. Heinlein said that since the tenants come through the Medical College and the college controls the parking, it would be his preference to go back to the college to get more parking spaces, which would be easier than building new spaces.

Ald. Herzog observed that the situation with the north parking lot is unique due to the moveable barrier wall than can provide more parking for this use. He felt that the athletic facility's use may be somewhat seasonal with more traffic in the winter than summer, and he suggested adding a one-year review.

> Alds. Krol and Kopischke accepted a friendly amendment by Ald. Herzog to add a contingency of a one-year as well as six-month review –

Ald. Ecks concurred with concerns about incremental additions of surface parking on the county grounds. If additional parking comes back for a vote, he said that he will be using the word "structure."

Vote on the motion as amended, Ayes: 8

Conditional Use – 6101 W. Vliet Street

The committee reviewed a request by Jody Janus for a Conditional Use in the AA Business District at 6101 W. Vliet Street to operate a massage therapy business in a multi-use building. Ms. Welch reported that the use meets parking requirements. The Plan Commission unanimously recommended approval with hours of operation of 8 a.m. to 8 p.m. Monday through Saturday and 8 a.m. to 5 p.m. on Sunday.

Ms. Janus reported that she is now certified in Wisconsin as well as nationally and in the state of Washington. She will offer professional therapeutic massage and relaxation.

Kim Melcher, 2431 N. 60th Street, also a nationally and state certified massage therapist, said this business would be an excellent benefit to the city.

Moved by Ald. Becker, seconded by Ald. Krol to recommend to Council approval of the Conditional Use contingent upon obtaining proper licenses and permits and hours of operation from 8 a.m. to 8 p.m. Monday through Saturday and 8 a.m. to 5 p.m. Sunday. Ayes: 8

Conditional Use – 7332 W. State Street

The committee reviewed a request by Lauri Ashley Guerdon for a Conditional Use in the AA Business District at 7332 W. State Street to operate a massage therapy business in a multi-use building. Ms. Welch reported that the use meets parking requirements. The Plan Commission unanimously recommended approval with hours of operation of 9 a.m. to 9 p.m. daily.

Moved by Ald. Becker, seconded by Ald. Krol to recommend to Council approval of the Conditional Use contingent upon obtaining proper licenses and permits and hours of operation from 9 a.m. to 9 p.m. daily. Ayes: 8

Sign Code Amendment

City Attorney Kesner reported that it was recently found that a word was inadvertently omitted from the definition of "sign" in Section 15.14.020 of the sign code when changes were adopted in April 1999. The definition should define a sign as a "device for visual communications and the structure which supports it, which is used or is intended to attract the attention of the public, when the display of this device is *visible* from the City right-of-way." It is the word "visible" that was omitted, implying that a sign is only a sign when it is in the city right-of-way, which is clearly not the intent and not how the ordinance has been enforced. It is now necessary to reinsert the word "visible" where it was omitted in 1999.

Moved by Ald. Treis, seconded by Ald. Ecks to recommend to Council introduction of an ordinance amending Section 15.14.020 of the Code by reinserting the word "visible" in the definition of "sign"

Proposed Ordinance – Smoke-Free Restaurants

Kathleen Barry, 608 N. 62nd Street, Coordinator of HART (Healthy Air for Restaurants in Tosa), referred to her letter of July 30, 2003, and a September 4, 2003 memo from Assistant City Attorney Miller Carter relating to adoption of an ordinance requiring all restaurants in Wauwatosa to be smoke free. She stated that her involvement in HART over the past year has shown that Wauwatosa citizens are ready for this type of change. She reported that a recent survey done by the city's health department in conjunction with Aurora Healthcare contained several questions dealing specifically with smoke-free restaurants and smokers. A representative sample showed that 87% of Wauwatosa residents do not smoke, indicating there are fewer smokers here than the national average. Of those surveyed, including smokers, 73% supported smoke-free restaurant environments. In addition to the surveys, an additional 2,100 individuals have indicated their support of this initiative.

Ms. Barry next referred to information forwarded to Council members over the past year about preventable illnesses caused by secondhand smoke, economic data, and studies that show restaurants have not been adversely affected by going smoke free. This has been looked upon as a health issue by citizens and professionals involved in the city's Strategic Health Initiative. Ms. Barry stated that it is the city's right and responsibility to protect people working in or patronizing restaurants. She noted that the memo from the Assistant City Attorney states that a smoke-free restaurant policy does not ban smoking or discriminate; it simply requires smokers to refrain from smoking during that short period. It is time for our city to do this, Ms. Barry stated, and it would be right to take the lead.

Ms. Nielsen, Public Health Nurse Supervisor, read a September 4, 2003 letter from Dr. Nancy Kreuser, City of Wauwatosa Health Officer. Dr. Kreuser cited research linking secondhand smoke to conditions such as heart disease, asthma, pneumonia, and cancer as well as placing children at greater risk of specific health conditions. She stated that there is no valid research indicating that passage of a clean air restaurant ordinance would cause economic hardship; research indicates a neutral or improved impact. Dr. Kreuser emphasized that there is strong community support for smoke-free restaurants and urged passage of a smoke-free restaurants ordinance.

The following individuals spoke in favor of a smoke-free restaurant ordinance:

Janet Adams, 10323 W. Park Ridge Ave.
Bruce Campbell, M.D. 18700 Engel Dr., Brookfield
Samer Choksi, MD, MPH, 7300 W. State St.
Bill Domina, 3150 N. Knoll Terrace
Trish Dulka, 2040 N. 51st St., Milw.
Eric Eastmo, 4465 N. 107th St.
William Hildebrandt, 5122 W. Willow Rd., Mequon
Susan Schoenmarklin, 130 N. 86th St.

Mr. Hildebrandt related difficulties encountered at restaurants due to his wife's emphysema and also commented on the effect on restaurant employees. This is a new era, he stated, and young people will not tolerate those conditions and will not patronize those places. Now is the time and this is the place to do something about it, he concluded.

Dr. Choksi, a physician at Aurora-Sinai and St. Luke's Hospitals, said that smoke does permeate. He cited articles from the Centers for Disease Control and the American Medical Association stating that smoke from one cigarette permeating the airways and lungs can cause changes similar to those seen in smokers of 10 years.

Ms. Adams, who said she is a victim of asthma and heart disease, felt that smokers should smoke where they cannot cause harm to the health and well being of others. She mentioned specific smoke-free restaurants that have not suffered financially and said that employees at non-smoking restaurants have indicated that they are very happy to work in a non-smoking environment.

Mr. Domina, an American Cancer Society volunteer, said that over one-third of all cancers are caused by tobacco usage and exposure. Having served on the Wisconsin Tobacco Control Board for three years dealing with policy on prevention and cessation of tobacco usage, he was also concerned about the behaviors and perceptions of young people in relation to smoking.

Ms. Schoenmarklin said she has been a tobacco control consultant for the past 15 years and was involved with Madison's smoke-free restaurant ordinance, which was phased in. Restaurants there that feared they would be going out of business actually ended up going smoke-free earlier than required. Nationally, 194 cities have passed smoke-free restaurant ordinances, she reported.

Dr. Eastmo, a chief radiation and oncology resident, spoke of the burden on the health care environment, noting that the top diseases—cardiac, cancer, strokes, and lung disease—are all preventable. He said that anti-smoking campaigns have changed the cultural norm and expectations and successfully decreased smoking rates by half. Lung cancer rates have also fallen.

Dr. Campbell, interim director of the Medical College's cancer center with a practice centering on cancer of the mouth and throat, mentioned concerns about environmental smoke in the workplace. He noted that the Wisconsin Restaurant Association web site makes the point of restaurant owners' rights. Their policy, practices, and position section contains a link to the Philip Morris USA web site. He noted that any studies showing negative economic impact on restaurants from smoking bans have been funded by the tobacco industry. He offered to share data and information.

(The meeting recessed at 9:10 p.m. and reconvened at 9:20 p.m.)

City Attorney Kesner stated that information contained in the Assistant City Attorney's memo of September 4 about other cities in Wisconsin with non-smoking ordinances should be corrected to indicate Shorewood Hills rather than Shorewood and the Village of West Salem rather than West Allis.

Ms. Dulka said she supports restaurants that don't allow smoking and supports restaurant workers also, who should be able to work in a smoke-free environment. We have the right to breathe healthy air, she stated.

The following registered in favor of an ordinance requiring all restaurants in Wauwatosa to be smoke free:

Linda Barikmo, 622 N. 62nd St.
Darcia Behrens, 653 N. 75th St.
Nicole Bickham, 2050 Ludington Ave.
Linda Brown, 828 N. 64th St.
Carla Caravella, 8221 Jackson Park Blvd.
Tony Caravella, 8221 Jackson Park Blvd.
Patricia Courtney, 2177 N. 70th St.
Chris Drager, 8222 Jackson Park Blvd.
Jill Gaertner, 6829 Terrace Ct.
Diane Herman, 2223 N. 72nd St.
Tim Herman, 2223 N. 72nd St.
Cheryl Hokenson, 7440 Melrose Ave.
Richard A. Kirsch, 11749 W. Homewood Ave.
Suzanne Lent, 9010 Jackson Park Blvd.
Chris Lindberg, 6222 Washington Circle
Denise Lindberg, 6222 Washington Circle
Jack Lohman, 266 E. Nob Hill Dr., Colgate
Janet McMahon, 4144 Menomonee River Pkwy.
Kim Melcher, 2431 N. 60th St.
Bev Mutter, 14107 W. Prospect Pl., Brookfield
Tyler Roberts, 8211 S. Landl Lane, Milw.
Lilo Sewell, 1025 Laurel Ct.
Jessica Thieleke, 7436 Kenwood Ave.
Donald H. Viehl, 2553 N. 97th St.
Joanne Viehl, 2553 N. 97th St.
Patty Walsh, 8100 Chestnut St.
Dona Wininsky, 1728 N. HiMount Blvd., Milw.
Linda Wittmann-Kirsch, 11749 W. Homewood Ave.

Written comments of those in favor of a smoke-free restaurant ordinance included the following:

- Protect the public health of restaurant patrons, workers and especially children who have little choice about the environments to which they are exposed but are disproportionately vulnerable to effects of secondhand smoke
- I would personally frequent several more restaurants if they were smoke free.
- I no longer go to several downtown establishments due to air quality
- Everyone has rights to a degree unless their behavior is damaging to another's well-being.
- Put Wauwatosa on the map as a community that cares about everyone's health.
- It has been proven that secondhand smoking is just as harmful as first-hand.
- This should be a law throughout the country.
- Should be statewide as in California.

- The right to breathe clean air should be more important than the right to pollute it.
- So hate being exposed to smokers while waiting for a table in non-smoking dining rooms.
- Friends say they would frequent 'Tosa restaurants if ordinance is passed instead of those in neighboring cities.
- I have severe allergies and asthma and have a severe allergic reaction to tobacco smoke.
- Such an ordinance would reflect well on 'Tosa as a progressive community.
- Smoke residue lasts in my system for up to one week; smoke-free is my only option.
- I smoke…do not in restaurants.
- Smoky restaurants are bad business. Even a new air circulation system can't effectively handle cigarette smoke.
- I would stop and eat more frequently in Wauwatosa if your restaurants were smoke free.
- This is good for the public health, particularly those who suffer from lung disease, and to protect those who work in these high-risk environments.
- This also de-normalizes tobacco use, particularly in the eyes of impressionable children and youth.
- It will reflect well on 'Tosa and create/enhance our image as a safe and healthy community to live in and visit/do business
- Everyone should have the right to breathe clean air, at work and at play.
- I regularly leave any establishment where non-smokers are not separated from smokers.
- A smoke-free environment will enhance restaurants in Wauwatosa.
- As a frequent visitor to Madison, I do not see a smoke-free environment as a deterrent to patronage.
- In the not-too-distant future employers will be paying workers' comp. claims and death benefits for employees who are exposed to secondhand smoke.

The following individuals registered and/or spoke in opposition to a smoke-free restaurants ordinance:

Angelo Alioto, 3041 N. Mayfair Rd.
Tim Capper, 6822 W. Wells St.
George Klicka, 2022 N. 84th St.
Catherine Schulls, 2469 N. 113th St.

Mr. Alioto said his restaurant has been in operation for 45 years and is smoke-free in the dining room but not in the bar room. They do a good business and there have been no complaints, he said. By law, the restaurant air changes every 7-10 minutes, he noted. No one should tell him how to run his business, he felt, if he runs it honestly and stays within the laws, including health laws. If people want to go to a place without smoke, they can go to those places but should leave the other places that are doing a good job alone, he said.

Tim Capper, 6822 W. Wells Street, owner of Colonel Hart's at 7342 W. State Street, said the proposed law would not affect his business since he serves approximately 30% food, but he does not agree with the proposal. He has 15 employees, 12 of whom smoke, which they do by choice as adults using a legal product. Referring to a comment about the Restaurant Association's connection to the Philip Morris website, he noted that money spent on flyers about this issue probably came from the tobacco settlement, which in turn also came from tobacco companies. The survey referred to earlier had about 400 responses, he noted, which he doesn't believe is statistically relevant. He spoke further about the right to make personal choices and being personally responsible.

Other written comments in opposition included the following:

- This is more government money helping create more government. More U.S. business is leaving because of regulations. Why not just clean the air?

There being no further comments from the public, the Chair explained that discussion would now be turned over to the committee.

Ald. Sullivan commended the grass root efforts taking place here and said he would like Wauwatosa to be the first community in Milwaukee County to take this action. It is an idea whose time has come, he said, although he acknowledged the depth of feelings on the other side of the issue. He said that he has spoken with people in other communities, particularly Fond du Lac. When the city took the appropriate role there in managing health and

welfare, the individual restaurant owners found they didn't have to be the "bad guy." The city takes the burden off individual restaurant owners. He expressed concern about future liability with having exposed people to known carcinogen over a period of time. With the volume of data and input, he said, it becomes not a matter of individual rights but a matter of willful indifference on our part. He emphasized that this measure is clearly vastly supported in the community.

> Moved by Ald. Sullivan, seconded by Ald. Kopischke to recommend to Council introduction of an ordinance, as drafted by the City Attorney's office, requiring all restaurants in Wauwatosa to be smoke free –

Mr. Kesner reported that the draft ordinance is a modification of the one that HART proposed.

Ald. Kopischke said he does not take lightly the imposition of restrictions on individuals or businesses, but when choices are invasive, it is appropriate to look at that. The choice to smoke is invasive on the health and welfare of the people around that smoker, he said. Young restaurant employees are particularly vulnerable to smoking and adopting the habit, and it is sometimes hard to make a choice to not work there. Ald. Kopischke said he is impressed by the work done in crafting the proposed wording and the educational efforts undertaken. He said that he has received more communications of various types on this subject than almost any other issue; there is overwhelming support for this ordinance.

Ald. Becker felt that the 50% requirement is too high; i.e., establishments whose gross sales of alcoholic beverages exceed 50% of the total gross sales would be exempt from the non-smoking requirements. He felt that percentage would be an unfair burden on certain businesses, particularly larger restaurants with bars that do not quite reach that level.

Ald. Herzog said that comments about protecting employees don't hold water—concern about the environment of restaurant employees should then also extend to bartenders and bar owners. He noted that we have no ban against smoking in office buildings, which California and New York prohibits, but rather let individual owners make that decision. Why not protect everybody, he asked. If passed, he felt the ordinance should have some type of hardship exemption, which other cities have included. If it is true that restaurants would not lose money, the exemption would not kick in. Kenosha exempts separate rooms with separate ventilation systems, requiring only a wall between the rooms. Kenosha uses a percentage of 33%. He pointed out that establishments will face the onus every year of showing that they meet the set percentage to qualify as a tavern rather than a restaurant. If they fail to report on time, they will have to ban smoking for that year. He spoke of free market issues but noted that sometimes the free market may need a little nudge to go in the direction that may be best for everyone. He suggested offering businesses some kind of incentive to go smoke free, perhaps by instituting increased fees for restaurants that allow smoking. At some point, that fee might be high enough to be a disincentive for certain restaurants. Also, restaurants that allow smoking could be required to post a sign to that effect in their front window, allowing patrons to comparison shop and choose to go elsewhere. There could be a comprehensive list on a web page that would also let people vote with their feet or there might be some incentives for restaurants to offer smoke-free periods without completely banning smoking. Ald. Herzog described this as an unfunded mandate in that it will cost businesses money but doesn't get them anything. He said that he would not vote for the ordinance as it now stands.

Ald. Treis described his own experiences as a non-smoker in business or social situations with smokers who, he felt, abused those around them. He supported the proposed ordinance.

Ald. Ecks was also in favor of smoke-free restaurants but offered a friendly amendment that would require all new restaurants to be smoke free but allow existing establishments to apply for a one year deferral that could be granted administratively. If they received a deferral, they would be required to post a sign identifying the premises as non-smoke free, with notification on the sign of the resources available to "kick the habit." His suggested wording was: "This premises will be smoke free on (date). Until then, your health department can be contacted for (referrals to cessation programs)." Mr. Kesner indicated he would need to research the legality of the suggested posting requirement. Ald. Sullivan declined to accept the friendly amendment.

Moved by Ald. Herzog, seconded by Ald. Becker to amend the motion to include a one year deferral for existing establishments that could be granted administratively upon application, such deferral being contingent upon posting as a non-smoke free premises; and further amending the 50% of alcohol definition for taverns to 30%; and to include a separate room exception and hardship exemption similar to the Kenosha ordinance –

Ald. Krol said he supports individual rights and feels somewhat more comfortable with the amendment. He recalled that prohibiting smoking in office buildings was first thought to be a major problem, but now we can't see how it ever was allowed. He noted that his daughter has urged him to support the ordinance and said it seems to be very much of a "win" for the non-smoking side but not a complete impediment for the business owners. He noted that there will be opportunities for further "fine turning" of the ordinance prior to final approval.

Mr. Kesner informed the committee that the 50% level used in the ordinance is consistent with state alcohol beverage laws that use that percentage to make a distinction between restaurants and taverns. Underage, unaccompanied individuals are allowed in establishments that sell less than 50% alcohol.

The Chair noted that the Employee Relations Committee was struggling earlier tonight with the issue of rising health costs. Here we are have heard some concerns about the effect on restaurant owners while almost everyone on the committee has said that smoking is bad. She noted that data and statistics she has reviewed do not bear out the fear that it would be bad for restaurants but rather suggest that it is advantageous for them to ban smoking. Perhaps we need to use this "cold turkey" method to protect our residents and guests, she said. She felt the 50% criteria to be appropriate and indicated she would not support the amendment.

Ald. Sullivan said that this is about providing people with a health place to eat or work and is completely within the context of our role as a city. He urged the committee to not support the amendment that diminishes the impact of the ordinance.

Roll call vote on the amendment, Ayes: 3 (Becker, Herzog, Krol); Noes: 5
Motion to amend fails.

There was discussion of the effective date of the ordinance. Ald. Sullivan felt that a specific date should be set that allows people time to inform their clientele.

With consent of the second, Ald. Sullivan amended the motion to include an effective date of January 1, 2004.

Roll call vote on the motion as amended regarding effective date, Ayes: 6; Noes: 1 (Herzog); Present: 1 (Becker). Motion passes.

The Chair explained that the proposed ordinance would be introduced at the September 16th Common Council meeting and referred back to this committee for further discussion on September 30th.

The meeting adjourned at 10:45 p.m.

Carla A. Ledesma, City Clerk
Wauwatosa, Wisconsin

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