

MINUTES
SPECIAL
CITY COUNCIL MEETING – COLUMBIA, MISSOURI
OCTOBER 9, 2006

INTRODUCTORY

The City Council of the City of Columbia, Missouri met for a special meeting at 7:00 p.m. on Monday, October 9, 2006, in the Council Chamber of the City of Columbia, Missouri. The roll was taken with the following results: Council Members LOVELESS, NAUSER, HOPPE, HINDMAN, CRAYTON, JANKU and HUTTON were present. The City Manager, City Counselor, City Clerk and various Department Heads were also present.

Mayor Hindman made the motion for Council to adjourn into closed session on Monday, October 16, 2006 at 6:00 p.m. in the fourth floor conference room to discuss pending litigation and contract negotiations and that the meeting be closed as authorized by Section 610.021(1) and (12) of the Revised Statutes of Missouri. The motion was seconded by Mr. Loveless with the vote recorded as follows: VOTING YES: LOVELESS, NAUSER, HOPPE, HINDMAN, CRAYTON, JANKU, HUTTON. VOTING NO: NO ONE.

PUBLIC HEARINGS

B407-06 Amending Chapter 11 of the City Code as it relates to smoking in public places.

The bill was read by the Clerk.

Michael Szewczyk, 1404 Highlands Court, stated he was the Chair of the Board of Health and noted the current ordinance was written in 1996. He explained the Board was approached in February of 2005 to review the ordinance and after receiving Council approval, they started a twelve month process to determine whether it needed to be changed. They reviewed other community ordinances and researched scientific literature to find out what had changed since 1996. He felt the 1996 ordinance was a good ordinance in that it stated smoking was prohibited in any commercial establishment, but from there it listed exemptions. He noted some of the exemptions, such as hospital rooms, were not in question at this time since they were already smoke-free. Others were more questionable, such as in taxis or limousines, because smoking was allowed if the driver agreed. He noted the drivers needed the tip and wanted the fare, so chances were they would probably not say no. They reviewed all of the exemptions and decided to keep several. Hotels could designate smoking rooms, performers on stage could smoke, tobacco shops could have smoking if they chose, and rented private rooms could have smoking as long as the people working at the hotel/motel/restaurant would not be exposed to smoke in the room. The old ordinance allowed smoking in a private office if everyone in the office was a smoker. They felt this created a problem because someone could quit smoking and have to move to a different office, so they took that out. The ordinance also did not address stadiums and open arenas and the Board felt it was important not to have smoking in the seating areas, so they included that. In addition, they added membership associations as an exclusion because they were all volunteers. Once they completed their review, they held

several public hearings and met with the local and Missouri State Restaurant Association. They also spoke with the local hotel/motel industry at their meeting. In addition, they held a public hearing that only assessed the economic implications because while from a health standpoint, they felt it was important to restrict the smoking in public places, they understood there could be an economic impact. After reviewing many articles and holding the public hearing, they could not find anything that clearly established there would be any significant financial impact. There was anecdotal evidence showing a business closed or had a difficult time, but there was no way to know if that would not have happened anyway. The Board also surveyed restaurants that had already gone smoke-free to find out if they had lost business and none indicated they had. Most felt going smoke-free was an excellent decision, while others were not sure. He pointed out that none thought it had been a bad decision. He explained they reviewed additional studies to include one from Pueblo, Colorado, which was a town of 100,000 and similar to Columbia. They went smoke-free and reviewed hospital admissions data for heart disease and heart attacks for the 18 months prior and the 18 months after the initiation of the smoking ban. They found a 27 percent reduction in heart disease. They thought it could be a fluke even though Helena, Montana and a town in Italy had experienced the same thing. He noted a couple of months after he sent the amendments to the Council, the Surgeon General came out with a report that brought forth new scientific data indicating the quick fast exposure caused blood to thicken and platelets to clot faster. This was probably the reason those towns saw such stunning results. They held a public hearing after all of the amendments had been written up in legal language. Questions were raised regarding conflicts with State law, if ventilation systems would be helpful and whether patios would be included. After the public hearing, they finalized the ordinance and sent it to Council.

Dr. Szewczyk pointed out the Board sent this ordinance to Council because they felt several things were important. They believed it was a public health issue, not just for employees of places that had smoking, but also for patrons. They also believed there was no safe level of second hand smoke. They heard testimony that OSHA had not determined safe levels of nicotine and that if it was bad they would have come out with a safe level. He explained nicotine was a drug, not a carcinogen, so they did not do that. There were over 50 carcinogens in tobacco smoke and for a lot of those, there were levels that were acceptable and not acceptable. Nicotine or co-nicotine, which was frequently measured, was a surrogate for all of the other things, so people were being exposed to it and there was really not a safe level. He noted they learned and were sure that second hand smoke caused disease. He pointed out the Phillip-Morris website stated public health officials had concluded that second hand smoke was dangerous. They knew it increased the incidents of asthma, caused problems with increased heart attacks and heart disease and caused cancer. He noted they studied the issue of ventilation and if they could have found a way out, they would have taken it. He explained ventilation systems removed the particles, but did not remove gases, so there would always be dangerous gases circulating. Another problem was that there was no mechanism to monitor and control ventilation systems that were put in. He asked who would inspect the ventilation systems to ensure the system was working or was even good. He pointed out there were no guidelines or federal parameters on ventilation systems. In addition, in August of 2005, the

American Society of Heating, Refrigerating and Air Conditioning Engineers indicated there was no ventilation system that could effectively eliminate the risk of second hand smoke.

In regard to the economic issue, Dr. Szewczyk stated the Board did not know whether it would impact businesses. The studies they reviewed showed there was not, in the big picture, an economic impact on restaurants, bars and other places going smoke-free. He understood there was the question of whether revenues would have increased if the business had remained a smoking business. They did learn that regardless of what was done, all of the businesses needed to be treated the same. The failed ordinances, such as those in Springfield or Maryville, allowed some businesses to have smoking, while prohibiting it in others. He noted Maryville chose to grandfather existing businesses, which caused an unfair competitive advantage. He stated he had spoken with a reporter from California who indicated they were initially worried, but noted everyone still went to the bars. He asked the reporter if he thought everyone would go for it if the ordinance was repealed and the reporter replied that even as a smoker, he did not believe it should be repealed. Dr. Szewczyk noted it was a dramatic and scary change, but was something everyone would get used to. He explained it would be enforced as it was enforced now. He stated the police did not go to theaters, offices or grocery stores and yet people did not smoke. If passed, people would understand it was the rule and would follow it. He noted the Board was concerned about the rights issue and pointed out two of nine members felt this should not go forward due to that issue. He stated they did not want to tell people not to smoke as it was not their position. He explained any smoker could go into any business whether it was smoke-free or not, but people with heart disease, asthma, or a respiratory condition could not go into certain businesses. When looking at rights, it was not equal to everyone. He pointed out the Board felt the role of public health was to remove public health risks. They felt second hand smoke was a significant public health hazard and that their job was to control and, if possible, eliminate those risks. He noted hundreds of communities throughout the United States and whole countries, such as Ireland and Uruguay, had found a way to eliminate the risk of second hand smoke. He stated the Board felt this public health hazard could be eliminated and asked the Council to adopt the amendments to the ordinance.

Mayor Hindman opened the public hearing.

Dean Andersen, 814 Timbers Court, passed around a packet of information and postcards signed by people in support of a smoke-free workplace. He stated he felt it was important for the community to have this debate and that this was an opportunity for Columbia to decide what the future would look like in regard to health and espoused values. He noted he was speaking on behalf of Smoke-Free Air for Everyone, which was a community based coalition that supported a broad, fair, comprehensive workplace ordinance that regulated smoking out of all indoor workplace areas including bars, bowling and bingo establishments and restaurants. He stated this was not an effort to vilify smokers. They felt this was a health issue and not a moral issue. They believed protecting the health and safety of the community was a primary responsibility of local government. He noted second hand smoke caused diseases and premature deaths in children and adults that did not smoke. Second hand smoke had been designated as a Class A Carcinogen by the U. S. Environmental Protection Agency and the National Toxicology Program and was a substance known to cause cancer in humans. The National Institute for Occupational Safety and Health concluded that second hand smoke was

an occupational carcinogen just like mercury, lead or asbestos. He noted Kenny Duzan stated “if someone owned a business, drilled a hole in the wall and started spewing cancer causing substances into the room, everyone would be furious and would demand that it end immediately.” Second hand smoke contained hundreds of chemicals known to be toxic and carcinogenic including formaldehyde, benzene, vinyl chloride, arsenic, ammonia and hydrogen cyanide. Children exposed had an increased risk of SIDS, acute respiratory infections, ear problems and severe asthma. According to the Surgeon General’s report, exposure of adults to second hand smoke had an immediate and adverse affect on the cardiovascular system and interfered with the normal functioning of the heart, blood, and vascular system in ways that increased the risk of heart attack. Non-smokers exposed to second hand smoke in the work environment had an increased risk of developing heart disease by 25-30 percent and lung cancer by 20-30 percent. Eliminating smoke at indoor work places protected non-smokers from exposure to second hand smoke. Separating smokers from non-smokers, cleaning the air and ventilating buildings could not eliminate exposure of non-smokers to second hand smoke. He stated he believed it was time for local government to listen to their constituents and protect the health and safety of their community. He noted some would state second hand smoke was not a health crisis, there was no need for such an ordinance because the problem was not that big and not that many people were affected and that they should reserve government intervention for a real health crisis. He stated second hand smoke was the third leading cause of preventable death in the United States and killed 350,000 non-smoking Americans and 1,200 non-smoking Missourians annually. Smoking killed an additional 400,000 people per year, which was more than all other drugs, homicides and AIDs combined. He wondered what a health risk was, if this was not one. He noted that when Tylenol bottles were poisoned and seven people died, the pharmaceutical industry was revamped. In addition, when 148 people recently got sick due to E-coli in spinach, hundreds of thousands of pounds were recalled. There were one thousand times more non-smokers dying each year from second hand smoke in the community than had died in these health crises. He stated simple, no nonsense, fair, smoke-free workplace ordinances could significantly reduce these statistics and lesson the health burden on society. He noted Missouri spent \$2.4 billion annually to treat smoking related illnesses, which included \$512 million by Medicaid and \$10.1 million for the care of infants born underdeveloped due to smoking exposure during pregnancy. At current smoking rates, 147,751 of today’s Missouri youth were projected to die prematurely from smoking related diseases. He asked how many deaths were acceptable before a local government considered a health problem a crisis worthy of intervention. He commented that the Council had the opportunity to save more lives tonight than most physicians did in ten years. He stated some claimed ventilation could alleviate the problem and noted the American Society of Heating, Refrigerating and Air Conditioning Engineers concluded that ventilation technology could not be relied upon to control health risks. Even Phillip-Morris had a disclaimer on their website indicating their ventilation program only addressed odors and irritation. Both the Environmental Protection Agency and the National Institution on Occupational Safety agreed that ventilation failed to protect occupants from the dangers of second hand smoke. He understood some claimed this ordinance would infringe upon business rights and pointed out businesses where food and drinks were served were already held to rigorous health standards and codes. He challenged

the public to name an industry that did not routinely set codes and standards to protect the health and safety of their employees. He pointed out Columbia's current ordinance already regulated smoking in all other businesses. He felt doing so in restaurants and bars would be anything but precedent setting. He thought it was unfair to protect the health of all people other than waiters, cooks, bartenders or musicians. He understood the Libertarians were claiming this was a property rights issue and that the owners of the business had the right to set their own rules. He noted property owners also had to meet codes and health standards. If a private property owner's condo was run down, the City could condemn it. The City set standards for safety and health on property and businesses all of the time, especially where health was concerned. He stated numerous other communities had set clean indoor standards to protect employees and felt Columbia should as well. He felt it was time to protect all Columbians with a smoke-free work place ordinance. He noted clean indoor air ordinances did not regulate people, they regulated behavior, and therefore, were not discriminatory. Smokers could eat in smoke-free restaurants, they just could not light up. He felt the lack of smoke-free workplace ordinances discriminated against people who had various respiratory ailments and could not risk exposure without getting sick. According to the ADA, all businesses had to be accessible to people with disabilities. He noted asthma, emphysema and COPD were conditions covered by ADA. Like people in wheelchairs, these workers had a legal right to accommodation. He believed that claiming indoor air ordinances violated the rights of smokers made as much sense as stating drunk driving laws violated the rights of drinkers. He commented that all rights came with responsibilities and the right to smoke came with the responsibility to not affect others with dangerous second hand smoke. He noted workers could not leave when someone lit up. He felt smoke-free work place ordinances protected business owners who would otherwise face liability charges. He stated the Kansas City Chamber of Commerce recently issued a statement explaining that as knowledge of the toxicity of second hand smoke became more widely known and established, the liability associated with knowingly exposing workers to it would increase. Some felt there was no need for a smoke-free workplace ordinance because the market was already dictating it. From past experience, some employers needed the government to set work-health standards and setting the standard helped to ensure a fair playing field. He commented that 9.8 percent of nice, sit-down restaurants were smoke free. The Columbia Chamber of Commerce decided to remain neutral on the issue because businesses affected were evenly split. More and more business owners were realizing that going smoke-free was the thing to do, but they would rather the City take the lead and make it a uniform policy to maintain a fair and even playing field. He commented that the tobacco industry, which had a long history of lying, misrepresented the economics of going smoke-free. For 20 years, the tobacco industry had been telling businesses they would go broke if they went smoke-free. The tobacco industry spent \$440 million annually in Missouri to promote their product. The truth was that smoke-free ordinances did not hurt business and sometimes helped it. Over 80 smoke-free ordinances had been implemented and these policies had no overall adverse economic effect on the hospitality industry in numerous States, including New York, Montana, Texas and California. In several of these studies, there was an overall positive economic effect. He believed that protecting the health and safety of the community was a primary purpose of local government and the Council was elected to be representatives so they did not have to go to the

polls for every issue. He stated it was clear from numerous studies and surveys that this measure enjoyed the support of the majority. The most recent survey, conducted by the University using random phone calls of over 700 Columbians, found that 89 percent supported smoke-free work places indoors and 93 percent indicated they would eat out more often or the same if restaurants were smoke free. Columbia was competing on a national level with communities such as Lawrence, Kansas, Lincoln, Nebraska and Lexington, Kentucky for commerce and workers. He wondered how they could expect to recruit desirables to the community if they fell short of living up to their espoused values of healthy living. He asked the Council to support the health of the community and to vote to support a broad, fair and comprehensive work place ordinance.

Ms. Hoppe asked about the percentage stated for nice sit down restaurants. Mr. Loveless replied 9.8 percent. Mr. Andersen explained they excluded fast food restaurants. Ms. Hoppe asked if they had a percentage for downtown restaurants. Mr. Andersen replied they did not.

Mr. Loveless asked if any bars were smoke-free. Mr. Andersen replied The Spanish Fly, which opened about six months ago and was a Latino dance bar, was smoke-free.

Ms. Nauser asked how many nice sit down restaurants there were in Columbia. Mr. Andersen replied he did not know off the top of his head, but explained they asked the City Health Department to supply them with a list of restaurants and they then took out all of the fast food restaurants. Ms. Browning stated she did not have the exact number of restaurants, but noted the Health Department inspected about 640 places, which included places like BreakTime.

Greg Rennie, 10900 South Hardwick Lane, stated he was Chairman of the Boone County Coalition, which was a group of concerned citizens and small business owners who were leading the fight against the proposed smoking ordinance. He pointed out he and most of the others in their organization also supported a smoke-free restaurant, but did not feel it was right to force everyone to live by their desires. He stated the opponents felt this was the will of the people. He did not think this was sufficient to impose the heavy hand of government and commented that preferences might trump personal property rights in socialist countries, but not in America. They indicated other workers had this protection, but ignored the fact that smoking was an integral part of many of these businesses. It was not an integral part of what an office or manufacturing facility provided, so he did not feel the comparison was valid. The opponents commented that the City already regulated restaurants. He agreed, but noted they regulated unseen consequences. Everyone walking into a restaurant understood the smoking policy and made that choice. They indicated other modern cities had adopted these bans and Columbia needed to be like them. He pointed out they were ignoring recent defeats in communities, such as in St. Louis, Missouri and Overland Park, Kansas where people decided personal property rights was the key measure. The opponents commented that city tax revenues would not suffer, but failed to mention that select businesses would fail. To assume otherwise was foolish. He noted the Board of Health understood Maryville restaurants that were grandfathered in had an unfair economic advantage indicating these businesses would do better with smoking than without. They stated it was healthier for the patrons of the restaurant, which was probably true, but Columbia had a lot of smoke-free options. The opponents also commented that it was

healthier for the employee. He agreed there was no question that smoking was bad for one's health and that they had to assume second hand smoke also had some negative consequences. However, the hysteria around second hand smoke was leading to ridiculous claims that no reasonable person would assume was true. He felt the opponent's argument ignored basic human choice and treated the workers as pawns with no ability to make their own decisions. In addition, none of the data supported this key argument. They presented data on preferences, but ignored issues relevant to workers, such as OSHA standards, turnover rates, wages and the percentage of smoking workers. He felt the key was to look at what they were not presenting. He pointed out the free market was working in Columbia and there was also the freedom of choice that addressed the needs of everyone in the community and not just a select few. He stated the health risk did not rise to a level which required government intervention and was small in comparison to candles and radon. He noted a smoking ban would damage some businesses forcing closures, layoffs and reduced wages. They were asking the Council to vote no on this ordinance, to let the free market work and to let the educated and free consumers and workers vote with their choices, dollars and patronage. He explained the Boone Liberty Coalition completed a survey, which was previously provided to the Council and showed the free market was alive and well in Columbia. The study was paid for by the Boone Liberty Coalition members and was conducted under his supervision. He assured the Council the study was conducted in a professional non-biased way and that it was a census of all restaurants. The study produced several key findings suggesting a smoking ban was not necessary in this community. He noted 63 percent of Columbia restaurants were already smoke-free indoors. This figure was up from 52 percent three years ago. In addition, two-thirds of all new restaurants coming into the community were smoke-free. They predicted that 70 percent of Columbia restaurants would be smoke-free in three years and 80 percent would be smoke-free in five years. He felt that provided a lot of choice for people in Columbia and reiterated that the market was working.

Glenn Nielsen, 1901 East Walnut, #12, commented that the Boone Liberty Coalition was against the smoking ban. It was not because smoking was a good idea or because voluntarily exposing oneself to second hand smoke was good either. It was because people were allowed to make that choice. He stated the restaurant industry was categorized as a service industry and concentrated on entertainment aspects. The choice of a restaurant to allow or not allow smoking was a critical one. Restaurants that banned smoking did so to appeal to those who preferred a smoke-free environment. Those that allowed smoking did so to appeal to the market that preferred to smoke. This decision was not arbitrary. It was calculated to appeal to the segment of the market they chose to serve. He noted a smoking ban did not affect each business equally because it depended upon the part of the market they were serving. Walking into or working at a restaurant that allowed smoking was a voluntary behavior and a risk the individual was knowingly taking. Unlike a hidden danger, such as asbestos exposure, restaurants did not hide their smoking policies. With nearly two-thirds of restaurants already smoke-free, those who did not want second hand smoke had plenty of alternative choices. Employees had over 100 smoke-free restaurants to choose from if they wished. Workers commonly chose jobs with work related risks, such as driving in a delivery job or working a fryer. If an employee was worried about working in a smoking establishment, there were other options

available to them. Over 85 percent of restaurant workers moved to another job within one year. He felt this statistic showed employees did not consider themselves stuck at their current jobs and had other employment opportunities if they were not satisfied with their work place. Customers were also able to take advantage of the numerous non-smoking options in Columbia's restaurant market. In addition, they had the added power to gently push restaurateurs to a non-smoking format by patronizing smoke-free restaurants. He reiterated the market was working. By voting with their wallet, customers provided a strong motivation for business owners to voluntarily make their establishment smoke-free. He pointed out Flat Branch was smoke-free bar. Mr. Nielsen felt this anti-choice smoking law would remove the business decision from the local business owners, who knew their customers best. Some owners would ban smoking to offer an environment many customers preferred, while other establishments would continue to allow smoking offering a niche market. In both cases, the restaurant owner was deciding whether they would allow a legal product to be used on their private property.

Mr. Nielsen pointed out there were two members of the Board of Health who voted not to recommend this smoking ordinance. Nathan Voris, a member of the Board, wrote a minority report which included reasons why this ordinance was not needed.

In regard to membership organizations being exempt, Mr. Nielsen agreed there was an exemption in the ordinance, but there were so many qualifiers that none of the paternal organizations in town, such as the Eagles, Elks and the VFW, could qualify at their locations where they sold alcohol, so this would impact those membership organizations.

Mr. Nielsen stated choices involving risks were made everyday, such as a risky profession or driving to work. He reiterated the health risks from second hand smoke did not rise to a level that required government regulation to ban smoking in privately owned bars and restaurants. There was no doubt that smoking increased the risk for lung cancer and heart disease, but this hearing was not about the health risks of active smokers. Some of the data provided by the proponents included health care costs for active smokers. The proponents of the smoking bans overstated the health risks of second hand smoke to the point where one might think second hand smoke was more harmful than actively smoking. The health risk from second hand smoke was very small when compared to long term smoking. He pointed out there were no documented deaths from second hand smoke. The estimated number of deaths was calculated from epidemiology studies where they attempted to determine the relative risk of lung cancer and heart disease for individuals who had never smoked, but had long term, frequent exposure to second hand smoke. A relative risk of one meant there was no cause and effect between what they were patrolling for and the end result they were looking for. A number greater than one did not necessary mean a causal relationship had been established unless the results were statistically significant. Some would argue one needed a relative risk greater than two to confirm a causal relationship. The relative risk for lung cancer for long term smokers had been found to be anywhere from ten to twenty-five. The EPA study the opponents referred to found the relative risk of lung cancer in individuals who had never smoked but had long term frequent exposure to second hand smoke was 1.19. Therefore, the risk of lung cancer from second hand smoke was very small compared to those who actively smoke. The proponents indicated there were over 4,000 chemicals in cigarette smoke. He noted people were exposed

to chemicals in the water they drank, the food they ate and the air they breathed. Coffee had over 1,000 chemicals in it and yet most did not think twice about drinking it. Of the 4,000 chemicals in second hand smoke, less than 100 could be easily measured. In addition, many of the chemicals in tobacco smoke that could be toxic or carcinogenic were common by-products of combustion that could be found in car exhaust, smoke from grilled meat, wood smoke and burning candles. OSHA, the lead agency for regulating work place safety, set standards for permissible exposure levels to chemical contaminants in air including all of those found in second hand smoke. A study by Littlewood and Fennell measured the levels of air contaminants in cigarette smoke in a small enclosed room without ventilation and found it would take 1,250 cigarettes smoked in one hour to reach the most restrictive limit. For a room the size of the City Council Chambers, it would take over 8,000 people each smoking four cigarettes in one hour to reach that most restrictive limit. Obviously, there was a slight health risk, but one had to go to extreme measures to reach any kind of limit. He noted ventilation could reduce second hand smoke and improve indoor air quality. In 2001, the Chemical Analytical Science Division of Oakridge National Laboratory released the "Environmental Tobacco Smoke in the Non-Smoking Section of a Restaurant" case study. It concluded it was possible to reduce ETF's in the non-smoking section to levels that were comparable to those encountered in similar facilities in which smoking was prohibited all together. It also concluded that inadequate ventilation, not environmental tobacco smoke, was the danger, so it was entirely possible that buildings ventilated to a level to comfortably accommodate smokers would promote higher indoor air quality over all. He understood Dr. Szewczyk mentioned the Helena, Montana study about heart disease and noted a further follow up showed if you went back further in history, the same drop in heart disease could be found in an earlier time period when there were no changes in the smoking ordinance.

John Pelzer of the Missouri Restaurant Association (MRA) stated he represented Columbia's restaurants, hotels, motels and other hospitality businesses and noted the MRA did not advocate a smoking or non-smoking position, but recognized and promoted the rights of business owners who had every financial incentive to do the right thing and make the correct choice as it related to the smoking environment of their business. He commented that the competition within the hospitality industry was fierce and consumers freely chose where to spend their leisure dollars. If this ban was forced on businesses only within the City's jurisdiction, he thought customers desiring a smoking environment would simply drive outside of the City limits or to an adjacent City. Without a level playing field throughout the State, these discretionary entertainment dollars would be spent elsewhere and would result in a negative impact on Columbia businesses and tax revenues. He stated this issue had been studied in Kansas City, St. Louis, St. Louis County, Jefferson City and many other communities. St. Louis County voted on this issue twice and voted in favor of the businesses making the right choice. They voted against the ban because of the negative economic impact it would have on their businesses. They passed a resolution, which was sent to the State indicating they should address this issue on a state-wide basis. The proponents commented that they saw economic studies of businesses where there was no economic impact on the smoking ban. The places mentioned, such as California, New York, Montana and Florida, all involved state-wide bans. The bans in Lawrence, Kansas, Ballwin, Arnold, Maryville and Springfield, Missouri had a

negative impact on the restaurant and bar establishments in those communities. This was not the case in States that had state-wide bans. He pointed out there would be legislation proposed this session to address a state-wide ban and reiterated that if there was going to be a ban, it needed to be done on a state-wide level so there was not an economic disadvantage for Columbia businesses. The MRA believed in and stood for business owner rights and their patron's personal responsibility. They believed it was poor public policy to enact a local ban without a state-wide ban and felt it was discriminatory. They also believed this proposal was contrary to every free enterprise and free market principal this Country stood for. He stated it had been proven across the nation that an ordinance of this nature would hurt local businesses. He noted they did not believe it was government's place to supplant its own citizen's personal responsibility and choice. He urged the Council to vote no and to allow the State to address this on a state-wide basis.

Mayor Hindman asked what the position was of the State MRA. Mr. Pelzer replied the Board had taken the position that it would not oppose a state-wide ban, if such a proposal was made. Mayor Hindman understood they would not support or oppose it. Mr. Pelzer stated that decision had not been made yet. They had a Board Meeting in October where he believed the issue would come up.

Mr. Loveless understood New York City was an example of a municipality that had taken the step to ban smoking, but the State itself had not. He asked if they had any data on the economic impact in New York City on its hospitality industry. Mr. Pelzer stated he had data that supported both arguments and he did not know which was accurate. Initial reports indicated it did hurt the industry, but he had not seen any data lately. They also received reports from New Jersey indicating it was great for them.

Dr. Michael Pakko, an economist from St. Louis, explained he was there at request of the Boone Liberty Coalition regarding relevant research he and other economists had completed. He noted since some of his research had been published by his employer, the Federal Reserve Bank of St. Louis, it was incumbent upon him to mention he was there as a private citizen and that his views did not represent official positions of the Federal Reserve Bank of St. Louis or the Federal Reserve System. He commented that in regard to Maryville, Missouri, it was mentioned revenues at restaurants went up after the smoking ban. He found that due to the timing of the increase, it made more sense to attribute it to the opening of a new Applebee's restaurant in town. After attempting to control statistically for that event, he found there was no statistically significant effect of the ban in Maryville. He stated that was not surprising because many of the restaurants in that town were already non-smoking and others were grandfathered in by name. Only a handful of restaurants were really affected and to the extent they suffered declines in revenues, it was dismissed as being antidotal and not considered seriously. He commented that the finding of a no statistically significant effect was prevalent. That did not necessarily mean there was no economic effect. It only meant there was no scientific evidence that could be uncovered when looking at specific communities over limited periods of time. Shortages of data made statistical significance an allusive concept because they wanted to be sure they were making statements with adequate support. He noted that did not mean there were not negative impacts on some specific businesses. He reviewed the effect of smoking bans on the revenues of casinos, which he understood was not relevant in Columbia, and explained when they were

able to obtain data for a specific segment of the hospitality industry or for particular businesses, it was possible to look at revenue data to find statistically significant results. He found in his examination of race track casinos in Delaware that they suffered a 15 percent decline in revenues with each of the individual casinos doing somewhat more or less. As more evidence accumulated on the economic impact of smoking bans, it was becoming possible to use this data to add some precision to their estimates rather than looking at individual communities. Studies at the University of Wisconsin-Milwaukee and the University of Kentucky looked at County-level employment data for the entire nation, so they were able to look specifically at bars and restaurants and how employment was affected after the imposition of smoking bans. Neither study found any statistically significant effect on restaurants as a broad category. The Milwaukee study found that restaurants in warmer climates fared better than those in colder weather areas, which he thought had to do with the feasibility of outdoor patios where smoking was permitted. He noted there were differences in regard to the types of restaurants and its geographic area. Both studies found statistically significant declines in employment of 5-17 percent at bars. He pointed out the business owners and managers present to register their concerns about how the proposed ordinance would affect their businesses had valid grounds on which to base their concerns. There was evidence that some businesses were affected more than others. In regard to economic efficiency, as an economist, he had a great admiration for the ability of the free market to efficiently allocate goods, services and amenities. He felt the market based outcome should be used as a benchmark of any decisions regarding whether or not public policy was necessary or appropriate. When government intervened, there were always adjustments and reallocations that took place. He understood there had been an increase in non-smoking restaurants in Columbia and noted as customer attitudes evolved, business owners were changing their policies to accommodate them. This meant the market was working in the right direction. In regard to the employee, he pointed out as working in a smoking restaurant entailed risks that were undesirable, employers would find it harder to hire qualified workers, which would tend to bid up wages and compensate for the perceived risks. He explained that was the way the market system handled risks and hazards in other professions and was a model worth considering on this issue. If this ordinance was passed, he agreed it would not devastate Columbia's economy, but commented that it was misleading to say there would be no economic effect. Ordinances like this had differential effects on different kinds of businesses and he hoped the Council would take that into consideration when they evaluated the ordinance.

Ms. Hoppe understood attendance in bars and restaurants increased in Maryville, possibly due to the Applebee's, so that was taken out of the equation. She asked if they also provided for the people who would have gone to the other restaurants, but went to the new restaurant to try it out. Dr. Pakko replied he was not able to bring that level of specificity to the data. The only way he could distinguish statistically between the imposition of the smoking ban and the opening of the new Applebee's was the timing of the events. There was no detailed data on how many customers one restaurant took from another.

Darla Maloney, the State Chairman for the Missouri Libertarian Party, stated she had been fighting smoking bans not only in Missouri, but in Kansas, Kentucky and Texas as well. She understood that Ballwin, Missouri bar owners had been negatively impacted by the ban.

Sales were down 50 percent in the Dining Room and \$200,000 overall at Harry's West in Ballwin. Business was down 35 percent at the Seventh Inn. The owner of the French Quarter indicated he was losing customers to neighboring communities and would be out of business in six months. In Arnold, Missouri business fell 30 percent at Kreiger's Pub and Grill. Ms. Maloney provided the Council a letter from Randy Crisler, who was a Council Member for Ward 1 in Arnold, Missouri.

Mr. Andersen stated the tobacco industry was the only industry that would be hurt by these kinds of ordinances and was why the industry was working to convince businesses that they would go broke if these kinds of ordinances were passed. Many of the legislators were beholding to the tobacco industry because of the money they provided to their campaigns. He understood they commented that he had mixed smoking and non-smoking data and he agreed he did mix it a little, but stated he was clear on what was smoking data and what was second hand smoke data. He explained he did that because the burden of cost came from both. He stated when an ordinance like this was passed, it not only protected the people in the work place, but had a spin off benefit in that it reduced the initiation rates by almost 50 percent. Youth growing up were then 50 percent less likely to smoke. Over time, there was a significant reduction in smoking rates, which reduced the huge burden.

In regard to choice, Mr. Andersen pointed out smokers still had the choice to go anywhere they wanted. They simply could not to light up when they chose to go inside. He stated people with health problems did not have that choice, so he did not believe it was an anti-choice measure. He thought it was more of a pro-choice measure.

Mr. Andersen understood they stated the risk was not prevalent enough to merit this intervention and wondered what constituted enough risk to merit intervention. He noted they spent hundreds of thousands of dollars on crosswalks to protect people walking over streets. He stated Columbia was a City that put health first and believed this was another example where they should be doing that.

In regard to the comment made indicating people would leave the City and go elsewhere, Mr. Andersen noted that when Minneapolis went smoke-free, only a few months later St. Paul went smoke-free. That did not happen because people from Minneapolis were going to St. Paul to dine. They found with sister communities when one went smoke-free, the other community often followed. In regard to the workers choice, he stated he did not think it was easy for people to choose another profession if they were a restaurant worker. People, who were higher up in management, and musicians, who performed in bars and clubs, worked several years to master their profession or instrument, so it was not that easy to change their profession.

Regarding the comment made about OSHA and if this was an environmental health risk why OSHA was not regulating it, Mr. Andersen felt it was due to the tobacco industry. Junk science stated OSHA dropped plans for federal rules on indoor smoking because there was no evidence that indoor smoking was harmful. In a letter to the Jefferson City News Tribune, an engineer for the EPA indicated he had been assigned to OSHA in 1994 to study the issue and develop these rules, but pressure from a tobacco-state Congressman pressured OSHA to adopt a do nothing policy.

Mr. Andersen encouraged the Council to look at the sources of the research to determine whether it was funded by the tobacco industry or not and whether they were looking at

subjective or quantitative data. He encouraged them to look at quantitative data and credible scientifically based research that had been peer reviewed rather than junk science being promoted by one side or the other.

David Drum, 3100 Skylark, stated he had been asked to read the letter from Randy Crisler, who was the Councilman from Arnold who was not able to attend. Mr. Crisler's letter indicated he was not a fan of the smoking ban. It was a matter for the state and federal legislature and should not ride on the shoulders of municipalities alone. As a Council Member, he felt there were many sides to this issue and the rights of local businesses to fairly compete weighed heavy on him. He did not presume to tell them what was right or wrong in their community, but felt he had information they might lack. He had worked in bars and restaurants all his life and after attending MU he owned a restaurant in Columbia for a short time. He was currently employed as a bartender and was a Council Member in the City of Arnold. Several years ago, the City of Arnold moved forward with a smoking ban. It was not well published and went largely unnoticed until it passed. Later there was a public outcry from the owners of the restaurants and the industry workers. Undaunted, the City moved forward believing businesses would be better and the community would be cleaner. Almost two years after the implementation of the comprehensive smoking ban, he did not feel the City was any more prosperous or clean for the effort. The sales tax information received over the first year of the smoking ban showed there was not a significant impact was incorrect. Of the nine affected restaurants, there had been a net decrease of over seven percent in sales tax. The 24-hour restaurants were most affected with losses around 15 percent. He noted this was not a loss driven by economy because their net receipts were up two percent across the board. He felt the numbers would have fared better had they not been forced to make up the short fall of the restaurants. He stated he was forced to leave his place of employment of six years, giving up health and life insurance as well as paid a vacation and a 401K. He was the person the smoking ban proponents indicated would never be harmed by this type of legislation. In the first few months of the ban, he lost \$50-\$75 per day. He asked the Council to keep in mind the owners as well as the employee of the business, who would bear the brunt of their decision.

Karen Edison, 9500 West Terrapin Ridge Road, stated she was a physician and was present on behalf of the Boone County Medical Society, which represented physicians throughout Columbia. She explained the Board voted to support this ordinance because physicians and other health care providers saw on a daily basis the disease, disabilities and premature deaths, which were consequences of tobacco and second hand smoke. She stated she was familiar with this issue because most of her family members were smokers. She also worked for two years in the 106th Congress for the U. S. Senate on the Health Education Labor and Pensions Committee and was familiar with the balance of personal interest and good public policy. For her, personally, she was swayed on this issue when the Surgeon General came forth with his report on second hand smoke. It indicated that they knew children and adults were exposed to second hand smoke, knew it caused disease and premature death, knew children had more respiratory disease, severe asthma and SIDS, knew exposure had immediate adverse effects on the cardiovascular system and caused coronary heart disease and lung cancer and knew there was no risk free level of exposure to second hand smoke. She commented that she was the Chair of the Department of Dermatology at the University and

interviewed a faculty member who had come from the University of Arizona. They met at the Marriott Courtyard where he was staying and decided to eat at Bennigans for lunch. When they walked in, they were met with a wall of smoke and he asked why Columbia did not prohibit smoking in their restaurants given all of the evidence that was out there. She stated she had no answer for him and was embarrassed. She commented that if France could decide to act on this issue, she hoped Columbia could as well. She believed this was a public health issue and thought supporting and protecting the health and safety of the public was one of the main functions of government. She encouraged the Council to support the ordinance.

Mr. Loveless asked if her parents were smokers. Ms. Edison replied they were at one time and added that her sister still smoked. Mr. Loveless understood she was raised in a household of second hand smoke. Ms. Edison replied not really because her parents did not smoke when she was in the home.

Mr. Loveless asked if she and her visitor stayed and had lunch at Bennigans. Ms. Edison replied she had no choice because he was on a tight schedule and they only had about 40 minutes to get back to the University. She stated she did not eat because she was allergic to cigarette smoke. She commented that it was not always a choice.

Ted Groshong, 2600 Limerick Lane, stated was a pediatrician and the Chairman of the Department of Pediatrics and the Department of Child Health at the University of Missouri. Following conversations with pediatricians in the community, he was representing their position. He explained he and his family recently went to a restaurant downtown, but there was so much smoke in the non-smoking section that they left. He asked the server about the non-smoking section and the server stated it was a joke. He felt the problem was that it often was a joke. He noted the incidents of pneumonia to children who were exposed to second hand smoke were between 20-40 percent higher, the incidents of asthma were 10 percent higher and 13,000 to 60,000 unnecessary admissions to hospitals had been ascribed to internal second hand smoke. Exposure to second hand smoke had been shown to affect cognitive test scores in small children. Pediatricians were concerned with the health of children prior to birth and there was a lot of evidence that mothers exposed to second hand smoke were at greater risk to have children with SIDS. They already knew children were at an increased risk for SIDS if they were exposed to second hand smoke, but they now believed children in utero whose pregnant mothers were exposed to tobacco seemed to have an increase in SIDS and a decrease in cognitive test scores. He felt it would be unacceptable if they, as a community, put signs on restaurants saying they did not wash all of their dishes well and it was up to the individual as to whether they brought their children in or not. Yet they put up signs saying smoking was present while knowing it was a serious risk. He asked the Council to pass the smoking ordinance.

Mr. Loveless stated he and his three siblings were raised in a house with two smokers and asked if the incidents of childhood maladies caused by second hand smoke was different then than it was now. He wondered why his generation seemed to be okay. Dr. Groshong replied he believed it was not studied until recently. He noted the former Surgeon General was a pediatrician and was the first person to bring smoking to the attention of the public in the 1960's/1970's. At that time, he pointed out no one was paying any attention or looked into it because there was so much publicity about the safety of smoking. He provided a paper to the Council for their review.

John Lane, owner of Johnny's Beanery and Vice-President of the Missouri Restaurant Association, noted they had a smoke-free dining room that was rarely used. It had a separate entrance and ventilation system. They advertised in the "Breath Easy Guide" and those who advocated going to a non-smoking dining room were not flocking in. He explained he was friends with the Vice President of Operations for the Hereford House Restaurants. Shortly after they started seeing the effects of the ban in Lawrence, Kansas, they closed for lunch. Soon afterward, the business they previously experienced in their lounge area went away. He noted they did a tremendous amount of banquet business with regular weekly and monthly groups that used their facility. Those groups chose to go to other communities after the smoking ban was in place. That location was now closed and the Hereford House now only operated in the greater Kansas City area. He stated the Restaurant Association supported the rights of businesses to choose how to operate their businesses with respect to legal activities. He thought it was significant that this ordinance prohibited smoking on patios and wondered how that was different from City parks. In a community in St. Louis County, the restaurant members challenged the Council Members to visit the restaurants and talk to the patrons. This was effective for them because the Council chose to vote it down. He commented that one was entitled to go to a City Council meeting, but questioned if one entitled to go to an individual private business. He felt businesses had the right to attract whatever customers they desired. He noted they looked at the numbers everyday to determine if they needed to attract customers of a different segment or if they were satisfied with their current customers. The financial impact helped them make those decisions and currently, he believed, there was still a market for those who wanted to allow smoking. He thought it was important for the Council to vote no. As a business owner, he implored them to help keep his business open. He pointed out the MRA decided it would remain neutral on the issue as long as it affected the hospitality industry across the board with no exceptions. Whether they would stay with that position would depend on the language that might be submitted to the State. There were specific restraints regarding when they would stay neutral and when they would fight it.

Mr. Hutton asked when he was referring to his friend in Lawrence and his restaurant closing, if all of the restaurants in Lawrence closed. Mr. Lane replied no. He stated the Hereford House closed and several other bars experienced substantial down turns. He noted the liquor tax revenue in Lawrence dropped in the year following the passage of the ordinance and a number of facilities opened patios on their roofs because they were allowed to having smoking on the patios. Mr. Hutton understood some restaurants did better than others and asked how he attributed it to the smoking ban. Mr. Lane replied it depended upon market segment. In their case, the groups that were using the facility at Hereford House wanted to have the smoking lounge or smoking available and the organizers of those events decided to go to other areas because it was now a non-smoking facility. When looking at bars, sports bars and leisure type restaurants, the stay of the average visitor was considerably longer than it was for a fast food or fine dining restaurant. He noted those who might stay for four hours to watch the game were not as easily able to go without a cigarette as those dining in a restaurant for 30-45 minutes.

Joel Thiel, 1905 South Trails Court, stated he was a co-owner of Otto's Corner Bar and Grill and explained he was a smoker, but his partner was not. They got along fine working in an

establishment that allowed smoking, drinking, eating and socializing. He felt this was a big issue since they were talking about the rights of employees, business owners, property owners and health. He agreed smoking was bad for people, but felt sitting behind a vehicle while breathing its exhaust or having lead paint in an old house were also bad. He noted there were risks throughout life and with rights came risks. If the Council was going to vote on the issue, he hoped they would not pass it. He suggested they have a public ballot with the community voting because it affected more than the employees. He stated if he could not smoke in a bar while enjoying a beer and a meal, he would not go to those establishments. He chose not to go to non-smoking establishments. He felt the market was already bearing it and that it was a choice. He hoped the Council would make the right decision and not pass the smoking ban.

Pablo Mendoza, 4105 Gray Fox Court, explained that at the age of six he was diagnosed with chronic bronchial asthma and from the ages of 6-23, he was raised on military bases throughout the west coast where smoking was allowed. Four times throughout his upbringing, he was hospitalized for asthma attacks associated with second hand smoke and some of those stays were as long as ten days. He felt it was very important not to subject children to the experiences he had growing up. When he came to Columbia in 1998, he was surprised that smoking was still allowed in restaurants, bars, bowling alleys and other establishments having come from a state that had completely eliminated it. He made the choice not to go into places that had smoking because he would have to use his inhaler a great deal. He asked the Council to pass the smoking ban and not penalize or discriminate against those who had asthma, emphysema or other lung conditions. He noted anyone who wanted to smoke could go ahead and smoke. He just did not want to be subjected to a potential life threatening situation.

David Sohl, 206 W. Briarwood, stated he was a member of the Board of Health and involved in other tobacco initiatives around mid-Missouri. He noted the Boone Liberty Coalition, in their position paper, mentioned a 1.19 risk factor for getting disease, but failed to mention that in the same EPA report, there were many other risk factors in other studies. They just picked one of the lowest numbers. He pointed out this was a national and international trend where cities, states and countries were regulating second hand smoke for the health of its working population. France recently announced they would have a nation-wide ban on tobacco smoke. He felt Columbia could show the world it would prioritize the health of its population. He noted Boone County had the highest physician to population ratio in Missouri, a huge grant for bike paths, the YouZeum, beautiful parks, numerous hospitals and clinics and many other healthy aspects and asked the Council to continue the trend. He stated the cost of smoking was built into everything people did. If one purchased a car, they paid the middle man's health insurance to cover the smokers who helped sell and build it. As society continued to make a healthier population, those costs would go down because less costs would be passed onto consumers. He wanted to continue the trend to deter naive teens from starting a life long habit. He commented that no smoker benefited from starting to smoke, but many non-smokers benefited from non-smoking. He asked the Council to do the right thing by passing the ordinance.

John Song, 901 Sycamore Lane, stated he recently had the opportunity to work at Las Cruces, New Mexico, which was equivalent to Columbia in many ways. It had a land grant university, a robust economy, and an historic downtown, but those things were not as good as what Columbia/Boone County had. He noted they had passed a smoking ban in the restaurants

and bars over ten years ago. He worked there for four months and commented that it was a pleasure. It was hard to find people to entertain him at their homes because they all wanted to go out to the restaurants to socialize. Smoking was not an integral part of their restaurant/bar life. He stated the citizens of Las Cruces supported the ban there and felt the citizens of Columbia would support it as well.

Doug Brady, McGinty's Pub, 1312 Old Highway 63, felt this was the most anti-American issue he had ever seen. The fact people wanted the government to dictate to private business owners what legal activities could or could not take place in their business was fundamentally wrong. He felt the people that started this initiative had an incredible amount of nerve to try to tell people how they should live their lives, particularly when it did not affect them. There were plenty of non-smoking places to go to. There was an editorial in the Tribune by the Co-Chair of Smoke-Free Air for Everyone, which he felt was condescending. It cloaked the argument for non-smoking in the protection of the employees. He wondered how many of their members were in the hospitality industry. He believed there were only a few, if any, and did not think they should speak for him. He thought most if not all of the industry workers were against the ban. The article stated businesses and employees would not be adversely affected economically by this ban. He wondered if the Co-Chair owned a bar or restaurant. Every owner he knew was against the ban. Even those that had gone non-smoking on their own were against this because it violated their autonomy as owners to run their businesses in a manner that would maximize their return on their investment. He asked them to stop using the health of industry employees as an excuse to get this passed. He felt if someone in the industry was really concerned about health problems related to second hand smoke, they could find a job in another industry. Everyone he worked with in his bar smoked and they were not concerned about second hand smoke. None of the people intent on passing this ban had ever stepped foot into his bar. He asked why it mattered to them whether his customers wanted to enjoy a drink and a cigarette. It had no affect on them whatsoever. He also did not think many of the supporters were business owners because if they knew what it took to start a business, they would not be so cavalier about disrupting the businesses of others. They had not invested the time, money or sweat equity required to start a business in order to provide for their employees and their families, but had no trouble jeopardizing the livelihood of these owners and employees. He commented that even if one thought this ban was a good idea, he felt invoking government action into the private sector whenever there was something one did not like would come back to haunt them. Eventually, there would be something that was meaningful to them that someone would propose be banned. He noted New York City was considering a ban on all transfat oils in restaurants and asked if that went over the line. He believed this was not about smoking, but about the expansion of governmental power in places it did not belong. He stated people needed to think for themselves and not leave it to the government to tell them how to live their lives. He urged the Council to vote no.

Kevin Everett, 3406 Hedgewood Court, stated he worked at the University of Missouri and conducted research that developed and tested interventions to help people stop smoking. He urged the Council to vote for the proposed ordinance and to use evidence from scientific studies to guide their decision making. He asked them to not dismiss the science evaluated by the Surgeon General or the Centers for Disease Control and Prevention and other scientific

findings about the toxicity of second hand smoke. He asked them to recognize research using credible scientific methodologies consistently demonstrated clean indoor/smoke-free policies worked. They functioned as intended by eliminating or significantly reducing exposure to second hand smoke at the work place and resulted in a safer environment for workers and their patrons. This past summer, his research team developed a survey and contracted with a professional survey group from the University of South Carolina to conduct a public opinion survey from the general population of Columbia, Missouri. Using scientifically established methods for gathering a random sample, 700 Columbians were interviewed about their knowledge, opinions and behaviors related to tobacco use, second hand smoke and clean indoor air policies. He stated 89.2 percent preferred a smoke-free work place, 69 percent indicated support for laws that would make all restaurants smoke-free, and 57 percent indicated support for smoke-free bars. When asked about their future behaviors if all restaurants were smoke free, 28 percent said they would go out more often, 7 percent said they would go out less often and 65 percent said they would go out the same. For bars, 27 percent indicated they would go out more often, 15 percent indicated they would go out less often and 58 percent stated they would go out the same. Their results were similar to surveys done in cities that had implemented smoke-free policies. The findings told him that people fundamentally wanted a smoke-free work place and the majority wanted hospitality settings to be smoke-free. He noted he was a co-investigator on a project that was working with over 300 women who smoked during and after pregnancy. To improve their health, they were attempting to reduce stress in their lives to help them quit smoking. They were studying the effect of their interventions on the women and on the health and development of their babies. As part of the study, they collected saliva samples to measure exposure to smoking and nicotine. The women who continued to smoke had high cotinine levels. He noted many of the babies and small children they were studying also had measurable cotinine levels and many of the babies had levels as high as some of the women who smoked. He asked the Council to pass the ordinance.

Kim Dude-Lammy, 3109 Appalachian Drive, stated she was the Director of the Wellness Resource Center and the University and had worked in the prevention field for over 20 years. She commented that she was envious of the Council because they had more power to make a difference in the health of the students of this City and the community than she ever had. If they voted yes for this ordinance, she noted they would be able to protect the health of everyone who worked in and went to bars and restaurants. This would also decrease the number of students and young people who started smoking because a significant number of smokers started smoking when they drank. If the initial relationship between drinking and smoking was stopped, the number of people, especially young people, who smoked would decrease. She found it unbelievable that the bar and restaurant owners would complain about their rights being infringed upon when 80 percent of the businesses in town already could not have smoking. Those businesses were doing just fine. She noted they already regulated bars and restaurants on a regular basis and this was just one more thing. She believed the people, especially students, were saying yes to this. She noted she had done two surveys a year for the last three years and found the vast majority of students wanted bars and restaurants to be smoke-free. When asked about restaurants, only 5.2 percent of the students did not want them smoke-free. When asked about bars, only 14.8 percent did not want them smoke-free. She pointed out the

students were the ones going to many of the bars and restaurants in town and if the owners felt they would lose business, they were wrong. She commented that the Council had the power to change the lives of their constituents for the better and asked the Council to vote in favor of this ordinance.

Domingo Pacheco, 1418 Rosemary, stated he represented several hundred students on the University of Missouri campus from various organizations including Peers Against Second Hand Smoke, the University of Missouri Pre-Med Club and Alpha Phi Sigma. He stated he conducted his own survey to confirm the validity of the survey at the Wellness Resource Center. He noted 83 percent of his peers supported the ordinance to prohibit smoking in work places such as bars and restaurants and 76 percent of his peers supported prohibiting smoking on outdoor patios. The *Maneater* included an editorial which indicated patrons should not be asked to sign over their right to clean air simply because they wanted a beer or cheeseburger and an employee should not have to endure a night of toxic chemicals just to earn a paycheck. It also noted that some opponents were arguing that the affected employees understood what they were getting into when they applied for and accepted jobs at restaurants and bars, which was true, but noted many coal miners knew about black lung, child labor was known about during the industrial revolution, sweatshop workers knew they were entering a dangerous environment. It indicated knowledge about a bad condition did not mean it was okay and every job needed to come with the same basic protections. It continued by stating the City had to put the value of public health over individual convenience. Mr. Pacheco did not feel this would affect business. He noted the owner of Addison's was on KOMU and stated he would support the ordinance because did not believe it would cause unfair competitive advantages if it was across the board and applied to all establishments equally. It did not make exceptions for outdoor patios or exemptions for certain percentage of sales coming from alcohol. He commented that in Maryland, state-wide tax receipts rose 19 percent after the ban as opposed to 7 percent before. The University of Kentucky did a study that concluded when taking into account things like population size, unemployment rate and seasonal variations, there was a slight increase in restaurant employment and bar employment remained stable. "The Journal of Public Health Management and Practice" indicated ordinances restricting smoking in restaurants had no negative impact on restaurant revenues. He urged the Council to support the ordinance.

Mark Haddad, 28B Broadway Village, stated he visited a friend in New York this past Christmas and was a bar in Manhattan for two hours when he noticed he could see and breathe clearly since they had banned smoking. He pointed out it was the best bar experience he ever had. He commented he had been in Columbia for six years and was considering starting his career here. He felt it was misleading to say one had a choice because as a 20-something, single guy in Columbia wanting any kind of night life, he had no choice but to go a place that had smoking. He was unaware of any bars where young people went that was smoke-free. He stated he would appreciate if the Council passed this ban as they had done in New York, Chicago and Los Angeles.

Emily Sutton, 205 S. College, stated everyone understood Columbia benefited greatly from the University and college students. On the weekends, when looking at the restaurants, bars, pubs and clubs, one could see many college students spending the money at those establishments. If the ban passed, she did not feel they would go off to neighboring towns due

to simplicity, gas money, and having sober transportation venues such as Stripes and Cheers nearby. She thought business would increase. She explained that if her friends went to an establishment, but she only wanted to go for an hour, she would not go because she would smell of smoke after just stepping in for five minutes. If the ban was passed, she would go and probably purchase something or pay the cover. She felt the businesses would get what they normally got and maybe more. She noted her friends that smoked were not going to stay home. They would go out and spend money. If they really wanted to smoke, they would go outside and smoke. As new students came into town, they would not know the old way even existed. It would be normal and they would keep spending money.

Terry Wilson, 1127 County Road 388, New Bloomfield, stated she was a registered nurse at the MU Student Health Center and had been doing tobacco cessation counseling for college students for the last ten years. Even with the newest medications, nicotine replacement therapy, such as the patch, and counseling for help with a quit plan, it was difficult to stop smoking without supportive environments such as clean indoor air. When asking students what their motivations for quitting were, they primarily indicated it was for health purposes. They were tired of coughing, being out of breath, feeling tired and being sick. The other thing that always came up was that they did not want to be like their family members who had been a smoking their entire lives and had heart disease, cancer, or emphysema. When helping the students come up with a quit plan, the discussion always involved identifying environments where they lived, worked and socialized because that put them at risk for relapses. She noted that when she began student cessation counseling, smoking was still allowed in the dorms on campus. Residence halls were identified as a major source of initiation for smoking and providing a toxic environment for the social smokers to transition into habitual smokers. Students started a grass root effort to change the smoking policy in 1998 and it included a lot of dialogue and debate. They found the majority of students wanted clean indoor air, so the policy was changed and there was no resistance. She noted students who sought her help to quit came from all races, ethnicities and socio-economic backgrounds. Students, who were the service workers and musicians, had the greatest challenges in quitting because those professions put their health in direct conflict with staying in those environments to support themselves financially. She provided an example of a student who was successful in quitting before she left during her summer break and remained successful since she worked at a non-smoking high end restaurant and bar, but relapsed when coming back to school while working and socializing in a smoking bar. She stated she hoped the Council would support this effort.

Ms. Nauser asked what the average age was for people to start smoking. Ms. Wilson replied some started at ages 14-15. Ms. Nauser asked if she had any statistics. Ms. Wilson replied she did not, but thought a good portion started in their senior year of high school and in college. She understood the rate had gone down for students starting at MU since they had the clean indoor policy on campus, but she did not know the exact rate.

Jim Everett, 532 W. Hickam, brought in a battery operated box and stated their regular units that went in bars and homes included four technologies. He noted they were taking care of the air at the Grand Cru and Truman's Bar and Grill. When going into either establishment to eat, one did not smell like cigars or cigarettes when leaving. He stated technology available to these establishments to remove everything from the air. He felt if the Health Department truly

cared about the people in this community, they would have proposed a clean air act instead of a smoking ban. There were a lot more items in the air that did more damage to the body than second hand smoke. He noted he would leave materials for the Council to review. He commented that this was a legal product and if an establishment wanted to have smoking, he felt it was their business. He noted they had products that would take care of it and that there were a lot of other avenues. He felt it was a matter of choice.

D.J. Lanza, 514 W. Sexton Road, stated he had an interest in the Arch and Column Pub in Columbia, which had been open for about four years. He recalled how hard it was to get started. He was concerned because his livelihood might now be moving to Rocheport, Moberly, or Jefferson City. He asked the Council to think about what they were doing before doing it. Today, they were talking about cigarettes, but wondered what they would be talking about tomorrow. He was concerned about personal liberties and the fact that 58 percent of the clubs were already non-smoking. He noted they did not allow children in their business. In addition, they did not cater to college kids. They sold their products to tax paying adults, who could choose where they wanted to spend their money. He stated they had a large patio where people could go outside to breathe clean air. They would not be impeded or incapacitated by cigarette smoke there. He asked the Council to not pass this ordinance, but if it was passed, he asked that they include a provision for patios.

Glen Radke, 105 Redwood, stated the diagnostic manual for the American Psychiatric Association listed habitual smoking as a symptom of a couple of mental sicknesses including nicotine dependency. He noted the City did not write the open container ordinances according to what alcoholics wanted and the City should not make a decision on this ordinance based on what the nicotine addicts and the people who capitalized off of their addiction wanted. He asked the Council not to make healthy people write their laws around sick people making addiction based choices and the people that profited from them. He agreed free choice was relevant and commented that the few businesses that had not gone smokeless could see the change coming and chose to ignore it. He felt these few business owners made the choice to continue profiting off of the addiction of these people and did not adapt to changing times. There were many employees who could not choose among jobs and had to take whatever they could get, such as students and poorer people. He did not agree that this was a free market issue because the government subsidized the tobacco industry through most of American history to the point of giving them \$1 billion per year. The smoking industry would be almost extinct and this issue would not be relevant if the government stopped subsidizing them. Every time the price went up, the number of smokers who quit also went up. He felt government interference allowed smoking to remain popular, so it could then protect non-smokers too. He understood some people felt this was social engineering, but stated some also felt the Civil Rights Act and the Voters Rights Act were social engineering. He stated they were asking Council to give more rights to the people who were non-smokers and were being harmed by smoking. He noted the seatbelt law was also considered social engineering. A generation ago, almost no one wore seatbelts and now almost everyone did. He pointed out a lot of smokers were too addicted or too ignorant to care about taking their kids to places filled with cigarette smoke. Now they would not be able to do that. If the Council passed the ordinance, he felt the community would become a more appealing place for people who were thinking about moving here.

William Potter, the primary owner of the Arch and Column Pub, 1301 Business Loop 70, stated he lived in California at about the time they implemented the smoking ban. He noted the smokers did not quite smoking. They went outside the doors and there was traffic coming in and out all night long. The number of doormen had to be increased to police the smokers and people were congregating in parking lots. The police had to drive by more often due to the increased activity on the streets. He agreed smoking was bad, but felt they had a choice to walk into a place that allowed smoking or not walk in to a place that did not if they wanted to smoke. A person who did not smoke had the choice as well. He thought it needed to remain that way. He did not want to be told he had to police smoking in his establishment and also did not want to increase police work outside his business. He thought this issue would resolve itself as people stopped smoking, but at present, he had more smokers than non-smokers at his establishment.

Natalie Selsor, 2529J South Providence, stated she was confused by the terms “public places” and “public spaces”. When she thought of “public spaces,” she thought of hospitals, schools, and government buildings. When being a patron of a privately owned bar or restaurant, one was technically in public, but it was still a privately owned establishment that reserved the right to refuse service to anyone. She did not believe bars and restaurants qualified as a “public space”. She wondered what the effect on the downtown would be if this ordinance was implemented. She thought people would continue to patron bars and smoke, so she was picturing downtown with several smokers on the street corners. She did not think it would be the most pleasant place to be on the weekend or evenings. She felt private business owners should be allowed to be in control of the legal activities they chose to allow in their establishments. For some, this was a health issues and for others it was about freedom. She felt it was about freedom and the freedom to live her life with minimal interference from the government. She found the inclusion of privately owned bars and restaurants in this ordinance unsettling as a taxpaying, law abiding smoker and as an American citizen. Some supported this ban in defense of smoke-free work places for bartenders and servers. She did not think they should forget who owned those workplaces and noted it was not the City of Columbia.

Steve Concannon, 2011 Chalmers Road, stated he was a lawyer in Columbia and had been here for 4-5 years. He commented that he supported the smoking ban. He explained that he was born with bronchial asthma and had been hospitalized several times as a result. When he inhaled a good dose of smoke, his lungs closed. There was a lot of talk about choices. He noted this was not a choice he ever made. He commented that restaurants were a vital part of the hiring process and business meetings and it was not practical to try to live a life in a manner where one had to keep a daily ledger of places that were open for smokers and non-smokers. Many years ago, it was thought they could send certain groups of people to certain schools and they would be equal, but as applied, it was not equal. The claim of it being a personal choice sounded good, but did not work for him due to his disability.

Susan Even, 1209 Sunset Drive, stated she was a family physician at the Student Health Center and noted she saw students as patients and in the context of the community. She was dedicated in trying to look at ways to increase the health and well being of adolescents and young adults in Columbia because young people that came to the University usually stayed. She noted teens in Missouri were choosing to stay non-smoking at higher rates than they used to. She thought it was about a 5 percent improvement over the last decade. She felt young

people were making this choice because of their values, family situations and understanding of health. She stated her goal was to help the students remain non-smokers because it was so much harder to get individuals to stop smoking. The most common place students picked up smoking was in bars and restaurants while socializing and working. She hoped that by passing this ordinance they could join like communities and become smoke-free.

Willow Ruth, 807 N. Valley View Drive, stated she had been a restaurant employee in Columbia for the past seven years. Her experience with smoking increased as a bartender versus a waitress due to the small space behind the bar and having intimate contact with the customers all of the time. She stated she loved her job. She enjoyed making drinks and liked the money. It provided great hours for her lifestyle. She also liked talking to people. She did not, however, like smoking their cigarettes. She stated she had been a social smoker at different times when she was in collage. She stated were times when she was bartending that the smoke was so bad that she had to step outside to breath for a couple of minutes before going back to her job. There were numerous times when she had throat problems, which she thought was from talking and breathing in smoke. She commented that she did not want to choose not to bartend because of other people's habits.

Mr. Hutton asked if she had looked for a job in a non-smoking environment. Ms. Ruth replied she was trying to be self employed and was only picking up shifts once in a while. As someone who wanted to be self employed, picking up bar shifts was a good opportunity for money.

Lawrence Lile, 1304 St. Christopher Street, stated he was a licensed professional engineer, knew a little about air conditioning and ventilation and was a member of the American Society of Heating Refrigeration Air Conditioning Engineers (ASHRAE). He commented that ASHRAE was an organization of about 50,000 engineers and they based all of their recommendations on scientific studies and principles. ASHRAE stated that currently, the only way to effectively eliminate the health risks associated with indoor exposure was to ban smoking activity. No other engineering approaches including dilution, ventilation, and air cleaning could be relied on to control health risks from tobacco smoke. He noted this was actual science. The Oakridge study was junk science and funded by the tobacco industry. ASHRAE was independent. They wrote the codes and were not influenced by the tobacco industry. He stated he was also asthmatic and it was difficult for him to go into bars and restaurants where there was smoking. He also had a close friend who died of lung cancer a few years back. There was no proof that he died from second hand smoke, but he felt if they could keep one person from dying by passing this ordinance, it was worth it.

Roger Gadbois, 428 E. Clearview Drive, stated he preferred clean air versus a ban. He felt the Health Department attacked the issue from the wrong side. He worked in many motels, which were enclosed. They did not have balconies. He felt any parent that took their child through a smoking floor was endangering their child. Yet, the proposed ordinance exempted them from the smoking ban, which he thought was a worse situation than others. He did not think Columbia needed to set the trend. He thought they should wait to see if all of Missouri jumped on the band wagon.

Heath Thomas, 3510 Churchill, stated he quit smoking of his own free will for his health and not because the Council told him he could not smoke. He commented that if they passed

the ordinance, they should also outlaw Big Mac's, fries, cheese, cheesecakes and other bad things.

Leela Grace, 201 Parkveiw Drive, stated she was a third generation Columbian and a professional musician, who chose to work in only smoke-free environments. This was limiting the places where she was able to perform and had an economic impact on her and an impact on her career, but she believed it was a good choice. She noted most musicians could not choose to not perform in smoky environments because they would not be able to make an adequate living. She and her family had to come up with creative ways to make an adequate living. She commented that she traveled a lot and would be proud to tell people she came from forward looking town that instituted a ban on smoking in work places and took care of its citizens.

Greg Renner, 4300 E. Log Providence Road, stated he was a physician and head and neck cancer surgeon at the Ellis Fischel Cancer Center. He felt this was an opportunity to promote a good health policy. He thought Board of Health had done an outstanding job in researching the topic and in trying to be even handed. He stated the problems with tobacco were real. He noted he took throats, mouths, and tongues apart and gave patients radiation and chemotherapy, but due to the addictive nature, some were still not able to give it up. He stated he had four children and two had allergy and respiratory problems. They sometimes came home with their eyes itching and their lungs being bothered by it. It was not a constant problem, but a frequent problem. He noted tobacco exposure affected diabetics because of their problems with vascularity and it impeding wound healing. As a physician who had seen this for 30 years, he was in favor of this ban.

Darren Hellwege, 1612 Highridge Drive, stated he was a former member of the Columbia/Boone County Board of Health. He admired what the Board of Health had put together and hoped the Council would take their report seriously. While on the Board, he learned how to compromise and how, as a City government, to take reasonable steps to help promote public health and save lives. He stated he believed in liberty and people making their own choices. He did not think this was about people making their own choices. No one was being told they could not smoke. They were just being told to smoke outside instead of inside because when they smoked inside they killed people. He commented that there was conclusive evidence presented indicating second hand smoke killed people. He felt this was a reasonable measure that would save lives. He hated to think that tobacco lobbyists might be out telling other communities that Columbia decided not to ban smoking in public places. He agreed the State should do this, but until they did, Columbia could show some leadership by taking the reasonable moderate step of passing this bill of banning smoking in restaurants and bars and saving lives.

Rachel Anderson, 240 Old Plank, stated she was a junior at MU and the Founder and President of Peers Against Secondhand Smoke (PASS). She noted the students were the ones going out to the restaurants and bars and spending money. She stated over 250 students supported this and commented that she ran into more people that supported it than opposed it. She explained they did a campaign last February called "Kiss Me I'm a Non-Smoker" and gave away t-shirts that said that on the front and on the back read "88.9 percent would rather kiss a non-smoker." Those t-shirts were gone in an hour and she felt that showed how much the

students were on board with the issue. She noted she was in a sorority and when they had parties, they rented out bars and facilities. Most were smoking and they did not have a good option of places that were non-smoking. She paraphrased a quote of Dr. Martin Luther King which read “the end begins when you become silent about things that matter.” She commented that the Council did not have to be silent and could do something that would matter.

David Mehr, 714 Ingleside Drive, stated he was a physician who primarily treated geriatric patients, so he saw the ravages of smoking all of the time. He thought the Surgeon General’s report was an extremely well documented testimony to the hazards of second hand smoke. He noted the Council had the opportunity to take an action which would benefit the health of all of the citizens of the community. He thought public health actions were underestimated and pointed out most of the diseases that used to kill people, like tuberculosis and diarrhea and that still killed people in the third world, were conquered by public health measures rather than by what physicians did. They were now dealing with the diseases of civilizations that were more advanced and smoking was one of those diseases that killed people in our society. He felt this was their opportunity to act to help the public’s health. He noted they would not allow someone who was coughing with active tuberculosis to be in a public restaurant infecting other people and they should not allow people who were smoking in a restaurant to cause health damage to the other people. He hoped the Council would support the ordinance.

Qhyrrae Michaelieu, 1304 St. Christopher, stated she and her husband were dancers and loved to dance to Rock n Roll, Swing and Blues. They would love to be able to patronize places like the Blue Note, Mojo’s and the Music Café and had attempted to do so, but had to leave. She stated there was not an option for them because there were not a lot of smoke-free bars with great music. She hoped the Council would vote to enforce the ban.

April Terrell, 105 Rothwell Drive, stated she was against the ban. She noted she was very impressed with the ventilation in Columbia. In California, the ventilation was poor and once they put in the smoking ban, no one improved their ventilation unless they had a lot of money. Her husband did not smoke and he was pleasantly surprised by the air quality at restaurants here. She thought with bars, they would have a gauntlet of smoke outside and cigarette butts on the street. For the health of the employees and everyone else, they would be pushing the smokers out into the heat, rain and snow, onto the curb and street corners and into the parking lots where there was smog and carbon dioxide. She stated the sales tax was higher here and with the smoking ban, she feared for the income of some of these places. If the market for non-smoking bars and restaurants was so high, she did not understand why the business people had not taken advantage of that. She understood the Council had to decide what their job was and how best to meet the needs of the people and she trusted they would do so.

Traci Harr, 603 Kentucky Boulevard, stated she was a current student at Mizzou, but was speaking as a previous resident of Maryville, Missouri. She commented that she worked on the ordinance and when it was passed in June 2003, it was passed without exceptions. She was not sure where the language regarding grandfathering restaurants came from because she did not think that was included in the ordinance. In regard to Applebee’s, the smoking ban was passed in June 2003 and the Applebee’s opened the next winter. The taxable sales receipts reported on were collected prior to Applebee’s being opened. She noted this information could be found on the Department of Health’s website. They reported that when compared to

Missouri, the taxable sales receipts data for eating and drinking places in Maryville showed an increase of 11.35 percent, while the increase in Missouri state-wide was only 5.25 percent.

Brittany Perrin, 603 Kentucky Boulevard, stated she was raised in a non-smoking home, but from the ages of 5-7, she spent two nights per week in a bowling alley and at age 7 she was diagnosed with smoking induced asthma and allergies. She noted she had been able to avoid smoking establishments except when it came to restaurants. Her family always sat in the non-smoking section, but that was sometimes a joke. She worked many jobs throughout high school that were non-smoking until this last summer when she worked as a waitress at a restaurant. Due to her allergy to smoke, she requested to work in the non-smoking section only, which was separated from the smoking section by a three foot walkway. She agreed she could have easily gone to another place of business, but realistically, as a 19 year old female looking to support herself while in college, she could make an average of \$18 per hour at a restaurant and only \$8 per hour at the mall or some other establishment. She felt she should be able to work in restaurants as well.

Mike Verchelli, 2500 Old Highway 63, stated he was a junior at MU and that according to his internet research 402 Missourians were murdered in this last decade, but nearly three times that many died due to second hand smoke annually. It had also killed more Missourians last year than the war in Iraq had killed Americans in the last year. In addition, more had been killed by second hand smoke issues than by drunk driving issues. He stated he was a member of several student organizations that favored the ban and he was representing their views in addition to his own. He commented that the Pre-Med Club and PASS had worked on a service project in conjunction with the smoking ban at the hospitals. He showed the Council a ceiling tile from the roof of a smoke stand which was turned into a bike rack. If smoke could do that to a ceiling tile, he wondered what it would do to one's lungs and the lungs of non-smokers. As a resident of Ballwin, a City that had gone smoke-free, he noted that many of his friends, who worked at bars and restaurants, reported they had stayed in their positions longer and felt cleaner and smelled better than where they worked before. He asked the Council to protect the health of students and Columbians and to vote in favor of the ban.

Brittany Billings, 31 N. Sierra Lake Drive West, stated she was a hospitality management student at MU, was passionate about her major and did not want to change that just because she worked in a restaurant with cigarette smoke. She understood some were saying that if Columbia imposed a smoking ban, customers would go elsewhere. She noted she was unsure about others, but the farthest she would want to drive was 20 minutes. Cities less than 20 minutes away were Boonville, Jefferson City and Ashland and all had many less options for eating and drinking. She understood it had been said that the chemicals in second hand smoke were not measurable and the amount was insignificant. She wondered if it was measurable if workers were around it on an average of 3-4 hours a day for five days a week. She questioned how often those that smoked took a smoke break. She thought it was about every 2-3 hours. If they could wait that long at work, she felt they could wait an hour while in a restaurant where others worked.

Tiffany Bowman, 4920 Forum Boulevard, commented on the Pueblo, Colorado study that showed a 25 percent reduction in heart attacks. The article she read indicated each admission into the hospital for heart disease cost about \$20,000 and did not include lost productivity and

wages. She felt the Council could save a tremendous amount of money in not only health care costs, but the health of employees. She pointed out 1,200 non-smoking Missourians died every year from smoking related diseases and while tobacco was a legal substance, alcohol was also and it was regulated. She encouraged the Council to pass the ordinance. She noted she had a friend who could not attend and provided her written comments to the Council.

Julie Sears, 2009A Waterfront North, stated she had two young nieces, who she liked to take out to safe places and felt the more smoke-free places they could get was great. She also thought they really needed a total smoke-free ordinance because modeling was one way young children learned. The medical and economic costs of second hand smoke totaled about \$6 billion in 2004 according to a study released by the American Academy of Actuaries. The Academy stated the medical costs of coronary heart disease and lung cancer caused by second hand smoke alone was \$2.4 billion to the United States and included the medical care of 500,000 people suffering from coronary heart disease and an estimated 2,500 patients newly diagnosed with lung cancer. The economic losses from second hand smoke included lost wages, benefits, disability and premature death and accounted for another \$3.2 billion in costs. She felt it was important for policy makers to understand both the number of people who suffered ailments due to second hand smoke and the costs involved. She noted other potential second hand smoke related costs not considered in the study included those related to low birth weight and SIDS. She encouraged the Council to support the ordinance.

Buzz Kieper, stated he was a physician that took care of patients in correctional environments. He understood someone said smoking was a necessary part of their work world. He recently returned from Maryland where he socialized with many people he knew as an Army Medical Officer and the bars were full of people who were not smoking. He pointed out data from carcinogens did not necessarily apply to heart disease and respiratory disease like asthma and bronchitis. He thought it was duplicitous to allow cancer data to suggest people could not walk into a smoky place and have symptoms. He commented that his parents smoked and there was a lot of asthma in his family. He noted he had not been formerly diagnosed with asthma, but had a lot of allergies, which he thought could be related to the cigarette smoke he was exposed to as a child. In his work, he commonly encountered patients who had quite smoking for as long as a year while being in County jails, but after a few weeks when moving to where he worked, they would start smoking again. He reiterated he had bad allergies to a lot of things including cigarette smoke and noted he was also a part-time musician who could not perform.

Tim Harlan, 511 S. Glenwood, commented that if there was a State law, it would be written by big tobacco. He did not believe the Missouri Legislature would pass a law that would deal with public health. He stated he had listened to those discussions, been part of the debates, and watched who sponsored and wrote the bills. He reiterated that if they were waiting for the Legislature, it would be written by big tobacco. He understood the Food Code was approximately 80 pages and three of those pages dealt with hazardous food date marking. He noted there was not one public health ordinance that indicated they would leave it up to the business as to whether they wanted to abide by it. He agreed it was not the Council's job to make people quite smoking and he did not think anyone was proposing that. He thought it was part of their job to deal with public health issues and felt this was clearly one of those issues. In

other areas, they did not tell businesses it was a freedom issue. He urged the Council to pass the ban.

Renee Kientz, 4503 Bristol Court, stated she was a registered nurse and had been in health care for over 30 years. Most of her career was spent taking care of heart, heart surgery, cardiovascular surgery, thoracic, and lung cancer patients and she had seen the misery this addiction caused. Personally, she had lost numerous family members to smoking related cancers. As a child, she grew up in a home where both of her parents smoked and experienced childhood asthma and chronic bronchitis, which involved several trips to the emergency room. She commented that she had heard a lot from the adults about rights and choices, but had not heard much about the children. She noted many children were taken into restaurants and the smoking and non-smoking sections were not very practical. She felt everyone had to breathe, so it was not a choice. She felt the Council had the opportunity to protect the adults, children and the future of Columbia.

Brian Ash, 2211 Bluff Point Drive, stated he was a former Council Member and a restaurant owner in Springfield and Lawrence before and after the smoking ban. The biggest argument he had heard was that businesses should have the right to decide how to run their business and that the Council should not get into regulating private business decisions. He thought that was the job description of a Council Member, whether it dealt with trees being removed or the height of light poles. He noted the City had one of the most restrictive sign ordinances, but people in support of that were hesitant to support the smoking ban. He did not see this as being different from a lot of other things the City regulated. He thought this could hurt some businesses, but did not think it would hurt as many as people thought it would. If everyone had to comply, he did not think it would affect those who were afraid it would hurt their business. He stated he did not like the idea of excluding it on patios because he felt that provided a middle ground and people who did not have a patio could create them as they did in Lawrence. At that point, he did not think it was public health, but regulating the market place, which made him feel uneasy.

Johann Holt, 1108 Pannell Street, stated he understood there was a long list of guidelines used for all new food establishments, which some might consider a burden, but existed to protect the consumer. As a City, they had decided that cleanliness and safety were important in public establishments, that keeping restaurants and bars clean should not be a personal choice of the owner, but rather a requirement of running a company, and that the consumer should not have to worry about choosing restaurants to eat at by how clean they were and that the government would do something if unsafe and unclean working conditions were found. As a community, they decided regulations were important and appropriate and the Council had the power to ensure people could eat and drink at an establishment without fear of endangering their health. Second hand smoke was more dangerous to people's health than cockroaches or mice running through a kitchen. Cancer from inhaling dangerous chemicals in a cigarette was far more likely than catching a disease from poor food handling. This issue was not about anti-tobacco zealots trying to take away the rights of private owners. It was decided long ago that it was their duty to regulate businesses to ensure proper cleanliness and making a public establishment smoke-free was simply the next logical step in the process. He noted people could still smoke as much as they wanted. It was only an additional listing on the page

of guidelines that all businesses had to adhere to. A vote for a smoke-free Columbia was not a vote against tobacco. It was a vote for clean businesses.

Todd Houts, 4403 Rainbow Trout Drive, noted the organized opponents were trying to represent OSHA as the health information of choice, but OSHA health standards were not responsive to current data. This was an unfortunate by-product of how the government worked in that lobbying efforts competed with science and affected how OSHA, the federal agency charged with public health, was able to go about fulfilling their mission. ACGIH standards were considered the best data available by industrial hygienist. They revised their data annually. OSHA was viewed as the legally enforced level and was largely based on 30 year old data. He noted this was not a legal issue, but a health issue. He thought the opponents were playing on the fears of economic impact. He felt the opponents were also mixing data by stating the market was working, while noting many restaurants were going smoke-free on their own and by stating bars such as Flat Branch were smoke-free when Flat Branch was a restaurant with a bar. The market was not helping bars go smoke-free. He noted he rarely went into establishments that allowed smoking. He commented that he would like to spend more time enjoying the nightlife in Columbia, but as long as the bars and nightlife had toxic atmospheres, he would spend those entertainment dollars elsewhere. He urged the Council to amend Columbia's policy to ban smoking as proposed by the Board of Health.

Lana Jacobs, 901 Rangeline Street, explained they had a soup kitchen and two houses of hospitality and chose not to have smoking in those houses for health reasons. She noted it was their choice. They paid taxes to be able to make that choice. She commented that not too long ago, she spoke to the Council on behalf of her daughter in regard to the medical marijuana ordinance and thought it was disingenuous for her to ask the Council to support the use of medical marijuana and then to tell people who wanted to smoke a legal substance to go elsewhere. She felt this was a class issue. There were people who worked \$5-\$6 per hour jobs and wanted to go have a beer and light up a cigarette at the end of the day. If people did not want to go there, they did not have to, but she would. She noted she also lived with schizophrenics and getting them to stop smoking would never happen. She stated she wanted to be able to take them out as well. She asked if they were going to marginalize people, so they could not go anywhere in Columbia and noted she did not want to live in that community. She did not want to tell people about their choices.

Jason Robertson, 3900 Thornwood Drive, stated he was a part owner of Campus Bar and Grill. He thought the comment made earlier regarding the difference between public and private property was very applicable. He commented that the City did not own the building he lived in, did not pay his rent and did not help with his food costs. It was hard to listen to someone telling them what to do and how to run their business when it was not a public place. He did not feel it was not fair to listen to all of the health problems people had due to their parents taking them to places they should not have been when they were growing up. He had not seen an 8 year old in his bar at 11:00 p.m., which was the only time he would consider smoking a health hazard.

Michael McClung, 515 E. Cherry, Suite 250, stated he owned Déjà Vu, Quinton's Bar and Deli and Tonic and felt he was the most financially affected person here. He commented that they entertained and polled over 5,000 people last week. He noted 68 percent were smokers.

They came for entertainment and were over 21 years of age. They had the choice of whether or not to be there and he had a choice to run a business. He would not have gone into that business if he had known there would be something that would negatively affect it. He understood people did not want the grandfathering of property, but knew there were health codes that were grandfathered in, such as making people purchase new coolers that kept foods at different temperatures. Building codes were also grandfathered in even when they involved life safety issues. He asked the Council to consider the financial ramifications on the business owners.

Ms. Hoppe understood 68 percent indicated they smoked and asked if they asked the patrons if they would return to the establishment if it was non-smoking. Mr. McClung replied he did not. He noted he did not feel the necessity to go further than that because he was looking at the issue of the number of constituents that had a need to go to a smoking establishment. He pointed out 68 percent of the 750 people they had in a bar on Ninth Street with no patio would walk in and out on Ninth Street wanting to smoke. He suggested they communicate with the Police Department in regard to issues that would create.

Adam Dushoff, 211 Anderson, stated he was a co-owner of Addison's and Sophia's and noted they had voluntarily gone non-smoking until 10:00 p.m. at Addison's and entirely at Sophia's. When they went non-smoking at Sophia's, it destroyed their late night business. At Addison's, their business had more than doubled to what it was previous to that. He was not saying it was all related to whether they allowed smoking or not, but felt it was a situation, where as a business owner, he wanted to make that decision himself. He believed they came up with a compromise that worked in a number of situations for a number of their clientele. In regard to a gentleman that spoke earlier indicating he was on the news and for the smoking ban, he pointed out that was not correct. He was neither for nor against the smoking ban. He felt that if the smoking ban was in place, it needed be uniform for everyone with no exemptions.

Mr. Hutton asked if that included patios. Mr. Dushoff replied that was a good question because he was thinking more along the lines of other businesses that might be allowed smoking or not. He felt outdoor smoking on a patio or in front of a restaurant or bar would not make a difference unless they were going to outlaw smoking entirely. On a patio, which was open and free to everyone, was a little different.

David Dale, 1408 W. Lexington Circle, stated he was a graduate of the Journalism School, a full time employee of the Student Health Center at the University of Missouri, a bartender of five years, a musician of seven years and recently a first time home buyer in Columbia. In regard to the workers rights issue, he did not agree that workers had ability to choose where they wanted to work if they did not want to be subjected to second hand smoke. As an undergrad with a rigorous class schedule that had him working on projects or going to class from 8-6, the only jobs open to him were those available late at night, which were mainly bar or late night restaurant jobs. In order to make ends meet, the only job he felt he could take was that of a bartender. He stated he noticed a decline in his health when being forced to inhale the second hand smoke. When waking up the next morning, he noticed an inability to breath, headaches and coughing. He noted a lot of his friends that attended MU wanted to take root in Columbia and echoed a lot of the same sentiments he had. They wanted to be a part of a healthy community that looked out for one another and cared about the health of its residents.

John Schultz, 1301 W. Colchester Road, stated he was speaking as a non-smoker, father of two children, the Chairman of the Boone County Libertarian Party and member of the Boone Liberty Coalition and noted as a father, he was responsible for his two young sons. He had not found a restaurant in Columbia where he did not feel safe taking his sons for dinner. Bars were different, but they would not be allowed. In regard to the Maryville study, one of his members went to Maryville to investigate the ordinance and spoke with the Mayor. There were seven bars and restaurants exempted by name in the ordinance. He thought their relative risk number of 1.19 was accurate. He agreed banning smoking in restaurants and bars would possibly eliminate some illnesses, but it would not reduce the health costs in Columbia and Boone County, Missouri. That would take banning the sale, possession and use of tobacco. This would protect the worker, but it was not protecting the kid in the car with his parents or an elderly person living with smokers. The Board of Health minutes reflected discussion about patios because there was no science showing there was health risk for outdoor smoking, however, they went ahead and added that to the ordinance. He felt they tilted the playing field and were trying to level it up through government interference.

Becky Reynolds, owner of Cody's, 2508 Paris Road, stated if it was a state-wide ban she would not have a problem with it, but she was drawing people from St. Louis, Macon, Moberly, Centralia and Jefferson City. She did not think these people would leave their towns, where they had an entertainment industry, to come to a place they could not smoke and enjoy the evening the way they wanted.

Jeremy Brown, 2605 Burrwood Drive, stated he was a co-owner of Addison's and Sophia's and commented that he was impressed with the pinpoint accuracy some individuals could predict the success of his business without seeing his books, paying his bills, depositing his checks or dealing with his clientele on a regular basis. He noted he was conflicted. He did not smoke and agreed with the spirit of the ordinance. He also did not eat in smoking establishments most of the time. He had an 8 week old son and he would not take him to smoky restaurants, which was a choice he made. He and his partners made a choice to restrict smoking in their restaurants and they wanted to keep making that choice. It was based on their collective experience with their businesses and over 90 years of restaurant experience amongst them. In regard to the courtyards, he felt courtyards were not a level playing field. He noted he paid a lot of money to have a courtyard. It was a business advantage he earned and paid for. He did not believe the Council was charged only with Columbia's physical, financial, business, and civil rights health. He thought they sometimes had to make a choice between which liberties they might have to suspend for the greater good, if expending any liberties was for the greater good.

Larry Bossaller, 909 Prairie View Drive, noted he heard a comment from a person with a degree in statistics that stated in five years, 80 percent of all of the restaurants would be non-smoking. Smart business people already knew the trend. He wondered if they wanted to wait five more years to let more people die during that time. He stated he was a realtor and was selling Columbia to people to move here because he had confidence in what the City did. He stated he used to be an ex-drug counselor and nicotine was very similar to heroine when people tried to get off of it. By allowing people to walk into restaurants and smell smoke, they were being an enabler. He noted his mom died of lung cancer and had never smoked a cigarette in

her life, but she did go to a lot of places that had secondary smoke. He stated secondary smoke killed and the Council could stop that. If they saved one person's life, he felt they had made a big difference. He commented that he had heard a lot about freedom, but pointed out there was no freedom without restrictions. People could not do what they wanted all of the time. He stated choice was not about money or freedom, but about lives.

Alyce Turner, 1204 Fieldcrest, noted Missouri was the 46th State in the Country to pass a clean indoor air law in the early 90's. It was one of the weakest clean indoor air laws that still existed. That law stated proprietors could decide how much smoking they allowed and restaurants had a lot of freedom. Six months after Lincoln, Nebraska's smoke-free ordinance was in place, it conducted an analysis to see if the ordinance impacted business. A comparison of tax receipts for the same quarter before and after the ordinance was implemented showed a two percent increase. The Fayetteville, Arkansas economy continued to thrive after its 100 percent smoke-free workplace and restaurant law went into affect in March 2004. In addition, employment increased at 69 percent of Fayetteville restaurants and they saw a 6 percent growth rate increase. A University of Kentucky study found that after the smoke-free law went into effect in Lexington, Kentucky, restaurant employment increased while the number of bar employees remained the same and the number of licensed restaurants and bars opening and closing remained stable. Business was booming in New York City with tax receipts up 12 percent since the enactment of the City's smoke-free indoor air law in March 2003. Figures from the City's Department of Finance showed \$12 million paid in taxes from bars and restaurants from April-September of 2003 compared to \$10.8 million in 2002. In addition, a New York City Department of Health study designed to measure the ordinance's effect on employment rates in smoke-free establishments found a gain of 10,000 jobs. She believed it would do well in Columbia.

Eva Seibert, 2607 Burrwood Drive, stated she was a mother of a professional poker player, who traveled the world playing cards. She commented that she went to see him in August and noted they played in a room the size of the Hearnes Center or bigger filled with tables and no one smoked. His favorite poker rooms were in California where there was no smoking. It was her hope and thought that the economy would continue to grow if they passed this ordinance. On a personal note, it was one of the saddest days in her life when she called her son to tell him she had cancer. She did not know where she had gotten it since she had never smoked. She noted her parents, brothers and sisters smoked, but she did not. She stated it was not fun to go through the treatment and it was her vision that no mothers would have to make that call if they got it from second hand smoke.

Cindy Sheltmire, 1908 Tremont Court, stated she was a proponent of Columbia and promoted Columbia to customers and people moving into town on a daily basis. She noted people coming from outside of Columbia were overwhelmingly surprised the city still allowed smoking in public places. In a town that had so much to offer, was so progressive in so many ways and so environmentally conscience, she thought they had the responsibility to do the healthful thing, which would set them apart as a progressive community and one they could be proud to promote.

Tim Bellow, 112 Hubbel Drive, stated he recently came to Columbia from New York and believed one of the compelling reasons people were against this ban was that there were other

social ills that occurred such as people smoking at a ballpark or in a car or going outside to smoke and being exposed to carbon dioxide or other fumes. He felt this was true, but did not feel that because of these things, they should not make steps towards progress. In his opinion, banning smoking inside was a social good and would lead to better health. Coming from New York, he had a lot of friends that smoked and when they went to bars, his friends just walked outside. It was pretty easy. He urged the Council to support the ban.

Jason Sepga, 814 Timbers Court, stated a previous speaker mentioned this was a class issue and he agreed. He thought poorer people that wanted to go to a bar and have a cigarette after work or school were often the people who could not afford to go to an upscale nicer restaurant that had decided to go smoke-free. After a lifetime of being poor, they often felt so oppressed, they would not even voice an opinion that the cigarette smoke bothered them because they did not think anyone was listening. He agreed that if the ban passed, some people would incur an economic cost. Any ordinance passed for health reasons placed an economic cost on business owners. He felt those types of costs could also be considered investments since less people would be sick and out of work. He thought that at the time Addison's allowed smoking, it also started serving half price appetizers, which might be why people were patronizing Addison's at that time.

There being no further comment, Mayor Hindman closed the public hearing.

Mayor Hindman stated he felt the primary argument for the amendments to the already existing ordinance was health. He understood they had the conflict of health versus the freedom of the business owner to conduct the business as they wished and allowing the market to decide. He believed both were important, but that if there was a strong enough health case, it trumped the other argument. He understood the health case came from the CDC, the EPA, the American Cancer Society, the American Lung Association, the U.S. Surgeon General and the American Pediatric Association and felt there was pretty strong evidence indicating there was a significant health issue. He did not see how they could argue with that basic idea. The impacts on health were significant and included asthma, bronchitis, pneumonia, middle ear infections, chronic respiratory symptoms, emphysema, allergies, heart problems, cancer, and a weak immune system. It affected a tremendous number of people in a tremendous number of ways as far as health was concerned. The evidence was also clear that tobacco was addictive. He believed the only real way to deal with the health situation was to eliminate second hand smoke around non-smokers. They had to find a way to separate the smokers and the air they polluted from the non-smokers. He recognized that smoking was legal and noted no one was trying to make it illegal through this effort. He felt smoking was in a special class because it was one of the only legal activities that would cause harm to other people. They knew it caused harm to the smoker, but it also caused harm through second hand smoke to other people. He agreed it was a decision regarding choice and freedoms and thought the question involved whose choice and freedom would be affected in order to create this separation. He noted there were a lot of smokers that respected this issue by smoking where they did not affect other people, but there were also a lot of other smokers that did not make that choice. He wondered if it was fair for the person entitled to clean air to make the decision to not go to or work at various business establishments, so that people who smoked and wanted to smoke around them could do so. He felt the smoker's freedom should be limited because smoking caused health problems to other

people. He thought this should be set it up in such a way that it was the person responsible for the problem whose freedom was restricted. He also did not think a worker who wanted clean air should be restricted on where they worked. He noted that when he went to Law School, they studied the “assumption of risk” defense with the idea that if a worker got hurt on the job, the defense was that the worker knew about the danger of the job, went ahead and took the job, assumed the risk, and therefore, had no claim for the injuries received on the job. They now recognized that was not realistic and was unfair. He pointed out that was why workers’ compensation existed. They eliminated the idea of the assumption of risk. He felt the same idea applied to this. They should not expect the worker to assume the risk of bad health in order to access the job market. Service jobs in the food industry were typically low paying and an opportunity for the unskilled. Often times they offered low medical insurance or no medical insurance. Patrons also had various types of health issues that could be dramatically impacted by where they went. Going out to restaurants was a vital part of the social and business life. He questioned why they had to restrict the person who wanted free, clean, healthy air so the person who wanted to smoke and was polluting the air could have a choice. He reiterated that he believed the choice that should be restricted was with respect to the smoker. He noted the City already regulated the food industry in all kinds of ways. In regard to the potential loss of business, he stated they did not know what the outcome of that would be. The statistics based on sales tax was a good way to look at it, but they did not show what would happen to individual businesses. He thought there might some individual businesses that would be hurt by this, while others would be winners. He also thought business would remain the same overall. He noted he spoke to the Mayor of Ballwin, Missouri, where they had a total ban, and he was extraordinarily enthusiastic about what was happening there. He also spoke with the Mayor of Fayetteville, Arkansas, who was also very happy with what they were doing. There was a question regarding whether the involvement of local government was proper and he thought it was. He believed this was one situation where a local government could and should protect its citizens. He felt trying to wait for the State to act was futile. He understood there were suggestions regarding ventilation, walled off separate areas, excepting certain businesses or late night hours, but each one had a disadvantage and made the playing field less equal. In a town like Columbia, where they received so much medical testimony, had a health industry, and had an active and healthy lifestyle, he thought this was appropriate to do and stated he would support the amendment to the ordinance.

Mr. Janku stated he would be asking for an amendment in regard to the patio issue. Mr. Loveless stated he had several proposed changes to the ordinance also.

Ms. Crayton stated she was not a smoker. She questioned how this would be enforced and if it would be enforced equally. She also asked if a restaurant could become a private club for those who smoked similar to the private establishments for alcohol in Utah. Mayor Hindman replied that there were provisions that applied to private clubs, but they were very restrictive and would not work in allowing a current restaurant to become a private club. Ms. Crayton stated she feared allowing people to take others’ rights. She agreed smoking was wrong and noted she had a child with asthma, but still felt they needed to be careful regarding personal rights.

Mr. Loveless stated he wanted to change the language in section 11-290 to say “...lighted tobacco products of any form.” He was not sure what was meant by “other tobacco

products” and wanted to be clear on the intent. Mr. Janku thought lighted applied to all of it including “other tobacco products.” Mr. Boeckmann agreed. Mr. Janku stated it did not apply to the possession, just to a lighted product. Mr. Loveless commented that if the Council and the City Counselor felt it was covered, he was okay with it. Mr. Boeckmann noted it had been in there since it was originally passed.

In regard to numbers 3 and 4, Mr. Loveless asked if they could have elevators and restrooms that were not in enclosed areas. He wondered if they needed to specifically mention elevators and restrooms because he did not know of any elevators or restrooms unattached to other buildings. Mr. Janku thought it was in there because before certain buildings were excluded. Mr. Loveless thought this might be the time to clean up the ordinance. Mr. Janku noted the City parking structures had elevators. Mr. Boeckmann thought it would be okay to take it out if they wanted. Mr. Loveless stated he did not see the point of having redundant language in the ordinance.

In regard to number 13 on the next page, which read “the seating areas and enclosed spaces of any stadium, outdoor arena or athletic field,” Mr. Loveless asked if that meant seating and enclosed or that they could not smoke in any open air stadium or athletic field. Mayor Hindman thought it meant the seating areas. Mr. Janku thought it included press boxes at stadiums. Mr. Loveless understood people could walk out and smoke at designated smoking areas elsewhere.

In regard to membership associations, Mr. Loveless had received many phone calls asking that it include bingo games. It was a situation where the general public was invited, but the game was being run by a private organization and the people working it were volunteers. Since the public was invited, they were still at risk. Mr. Janku asked for clarification. Mr. Loveless replied he did think they should be permitted to smoke at the bingo games. He noted bingo games were mentioned elsewhere, but they were also excluding membership associations and there were membership association that met all of the criteria and were running bingo games. He asked if the intent was that bingo games would also be covered. Mr. Janku replied that when he read it, he thought bingo games would still be exempt. Mr. Loveless noted there were service organizations that made a significant amount of their income on bingo games and all of the people working were volunteers. His interpretation was that it would be covered under number 5 of section 11.291, but he did not think they should be exempt since the public was invited. Mayor Hindman suggested they add to paragraph 7 of 11-290 “including those operated by membership associations” after bingo halls. Mr. Loveless thought they could add a letter h to number 5 of section 11.291 reading “the associations not engaged in an activity to which the general public is invited.” Ms. Hoppe asked if he was saying if they engaged in an activity where the general public was invited, they did not have any exemption. Mr. Loveless replied he meant smoking would not be permitted at that activity. Ms. Hoppe understood they were exempt at other activities where the public was not invited. Mr. Loveless stated that was correct. Ms. Hoppe commented that she did not think his addition of a letter h with the proposed language would do that because they would have to meet the criteria that they did not engage in anything that attracted the public. Mr. Janku asked if he wanted this to be broader than bingo. Mr. Loveless replied that as long as they were approaching this in this manner, he thought it should include other activities as well. Mr. Janku thought it might be easier to include language

reading “this exemption shall not apply to activities to which the general public is invited.” Mr. Loveless thought that would work.

Ms. Nauser asked if membership associations excluded country clubs since they had paid wait staff. Mr. Hutton replied it could include country clubs, but if they had employees, they would not be exempt.

Ms. Nauser asked why hotels and motels were excluded to allow people to smoke in their rooms. She wondered why they had the privilege of designating a smoking and non-smoking area when restaurants or bars could not. Ms. Browning replied that when the Board of Health discussed this matter, the idea was to protect the worker’s health. They did not want it to be construed as encroaching into someone residence and a hotel was considered a domicile away from home. It was treated that way in other communities, so the Board left it that way. Ms. Nauser did not understand why they would exempt temporary domiciles if smoking was such a hazardous behavior and left residue behind. Ms. Hoppe thought the rationale was they were not intruding into a person’s home and their home behavior and this was considered a temporary home.

Ms. Nauser stated she was not a smoker and asked how 20 feet from any entrance was determined. She wondered if it was 20 feet directly in front of the door and if it was vertical or horizontal. She thought they could have an entire downtown street where smoking was banned. Mayor Hindman replied he thought that they drew an arch and noted it was ignored for the most part. Ms. Nauser noted they would now be forcing more people out onto the street to smoke. She asked how this would be enforced. Mr. Hutton stated it was not enforced now. Mr. Janku believed it would be complaint driven like most things. Mayor Hindman agreed having a lot of people go outside now was a big weakness. Ms. Hoppe thought it might be safer having more people on the streets.

Mr. Janku stated the public presentations were really great tonight. He understood there was a lot of tension and emotion, but noted everyone played by the rules. He commented that he thought the effective date of immediately upon passage was left in there because the Board of Health did not know when the Council would discuss it, so he suggested, if it passed, to make the effective date January 9, 2007 because it was about 90 days from today and would give people time to adjust.

Ms. Nauser stated she wanted to add country clubs as an exemption under the membership associations. She felt a country club could meet all of the requirements except for items g and f. Mr. Hutton thought item g would be a deal breaker. Mr. Loveless thought it might be easier to just insert country clubs in section 11-291 as an exemption. He asked if using the term “country club” was a strong enough definition. Mr. Boeckmann replied he thought it was. Mr. Loveless noted that would be item 6.

Ms. Nauser made the motion to amend B407-06 by adding an item 6 under section 11-291 reading “country clubs.”

Mayor Hindman asked if that would create the opportunity for people to call places country clubs that really were not. He thought they might want to think that through.

Mr. Loveless seconded the motion made by Ms. Nauser regarding the exemption of country clubs.

Mr. Janku felt that would be a significant class distinction. Ms. Nauser noted it was still a membership association where people paid dues to belong to a club and was similar to the Elk's Club or American Legion. Mr. Janku thought the Elk's Club and American Legion were exempt. Mayor Hindman understood they had employees. Mr. Janku thought they relied only on volunteers. Ms. Nauser stated she was not trying to make a class distinction. Mr. Loveless asked Mr. Boeckmann if he thought a country club would qualify under item 5 as a membership association. Mr. Boeckmann replied it would not meet all of the criteria. He noted item g would be a problem. Mayor Hindman thought membership associations could have professional employees, such as managers, but wait staff would kick them out. He commented that one of the major purposes of this ordinance was to protect employees. Ms. Hoppe agreed with Mr. Janku in that they should not craft this so affluent people had a private restaurant to smoke in because poorer people did not have that option. Mr. Hutton stated the argument he found most compelling was the health issues of employees and if that was the deciding factor on the overall ordinance, he could not support the proposed amendment because the employees were the most affected. Ms. Nauser stated she did not want to sound like an elitist, but noted it was a private organization. She thought the Elk's, American Legion and others should be able to have smoking on their establishments where they paid dues to belong. She did not think it was different than going to one's home to associate with friends. In addition, a country club was different than a bar or a restaurant by definition. Mayor Hindman noted the conflict was the hiring of employees.

Ms. Hoppe stated she felt it was a basic fundamental duty and function of government to regulate health and safety. She noted they had a Health Department and a Board of Health that they relied on to look into those types of matters. She commented that she did not know the correct temperature for food storage and the criteria of a healthy restaurant. She relied on the Health Department and the Board of Health to know that. She believed there were a lot of people breathing in second hand smoke, who had not looked at all this literature, were busy with their lives and did not know all of the details. She noted the public relied on the Council and Health Department to review these issues.

Ms. Nauser stated she would withdraw her amendment because her objective was to delete item g, so private for-profit and not-for-profit organizations could operate as their board of directors saw fit. She did not believe she would get support since it involved the employees.

Mr. Janku made the motion to amend B407-06 by changing paragraph 14 of section 11-290 to include "except as provided in section 11-291(6)" at the end of the sentence and by adding a paragraph 6 to section 11-291 reading "patio areas of any restaurant, bar or other commercial establishment designated by the owner or operator of the business as a smoking area; provided, that no more than fifty percent of the patio area shall be designated as a smoking area and no area shall be designated as a smoking area if it must be crossed to obtain access to a non-smoking area or a restroom." The motion was seconded by Mr. Hutton.

Mr. Loveless asked if it was 50 percent of the entire seating venue. Mr. Janku replied it was no more than 50 percent of the patio area. Mr. Loveless asked why he was proposing this. Mr. Janku agreed they had an important public health responsibility and it was clearly related to indoor smoking. He understood the comments regarding smoker initiation and continuation would apply to smoking here as well, so banning or restricting it on public patios would have a

public health impact. He stated he was trying to accommodate the fact that there would still be smokers in the community who would want to go outside. If there was a designated smoking area on the patio, he thought it might be more community acceptable. Mayor Hindman stated he understood what he was trying to do, but pointed out there were a few problems. Employees would be serving tables on the patio, so they would still be subjecting employees to second hand smoke. In addition, without doing this, there was a more level playing field because the people who had patios would have the advantage of smokers coming to their businesses. He asked about tables on the sidewalk. Mr. Janku thought that had been taken care of in that smoking was not allowed there. Ms. Nauser did not think it was the role of city government to make a level playing field in a private market place. She thought they were in a Country that relied upon capitalism and the market. She felt it was the market and the people that should determine the playing field, not the city government. She stated she agreed with Mr. Janku's amendment to add patios as an exception. Mayor Hindman noted he was not necessarily arguing against it. He just wanted to point out some of the negatives to that proposal. Mr. Janku agreed it was not perfect. Ms. Hoppe thought another way to look at it was to not establish, in general, a level playing field for business because the passing of this would be evenly applied to people who had patios.

The motion made by Mr. Janku and seconded by Mr. Hutton regarding patios was approved unanimously by voice vote.

Mr. Janku noted they also had to address the effective date and he suggested January 9, 2007. Mr. Hutton was not sure why they wanted 90 days. Mayor Hindman thought some might have contracts that went through the year. Mr. Janku agreed it could be shorter and asked if they had suggestions. Mr. Loveless thought it was reasonable.

Mr. Janku made the motion to amend B407-06 to have an effective date of January 9, 2007. The motion was seconded by Mr. Loveless and approved unanimously by voice vote.

Mr. Loveless stated he wanted to delete some language in section 11-290. He noted he wanted it to read "except as provided in this article, the possession of lighted smoking materials is unlawful in any of the following places used by or open to the public serving as a place of work," so he wanted the language between "materials" and "is unlawful" deleted. He also wanted to remove items 3 and 4 in section 11-290, which read elevators and restrooms because he did not think there were any stand alone facilities. Mr. Hutton pointed out they had a restroom at Stephens Lake Park. Mr. Loveless asked if this covered City buildings in general. Mr. Hutton replied yes. Mr. Janku noted there were temporary restroom structures set up around town, but agreed there were no portable elevators. Mr. Loveless stated he would then just propose removing elevators.

Mr. Loveless made the motion at amend B407-06 by deleting "in any form including, but not limited to, the possession of lighted cigarettes, cigars, pipes, or other tobacco products" in the introductory paragraph of section 11-290 and by deleting "elevators" and then renumbering the items within section 11-290. The motion was seconded by Mr. Janku and approved unanimously by voice vote.

Mr. Loveless understood Mr. Boeckmann was working on language in regard to smoking in bingo halls being sponsored by service organizations. Mr. Boeckmann suggested they add

“this exemption shall not apply to any activities to which the general public is invited” to the membership exemption portion of the ordinance.

Mr. Loveless made the motion to amend B407-06 by adding an item h to section 11-291(5), which read “this exemption shall not apply to any activities to which the general public is invited.” The motion was seconded by Mr. Janku and approved unanimously by voice vote.

Mr. Hutton commented that he agreed with much of what Mayor Hindman stated earlier and with what Mr. Janku stated in regard to the nature of the testimony from the public and how well it was done. He felt the most important thing about this for him was the impact on employees. The opponents of this ordinance felt the workers could just get another job, but he did not agree because as some individuals testified, they could only work certain hours on a part time basis. The other side of the argument, which was the economic impact issue, scared him. He hoped passing this would not have a detrimental impact on anyone. He could not believe people would not go to restaurants and bars if they banned smoking, especially restaurants. Some indicated they might go to other places. He noted the places where the ordinance had failed were suburbs of a larger city. The choices here were Jefferson City, Boonville, Fayette and Moberly. It was not the same as having suburbs back to back. He stated he would vote for the ordinance and hoped he did not have regrets due an economic impact. He did not want to see anyone hurt. He wanted to see how it worked because after a period of time, he believed people would not know the difference. He thought it was similar to years ago when one could smoke in office buildings, grocery stores or airplanes. Smoking in places like that was not even thought about now. He believed one day it would be the same nation-wide for bars and restaurants.

Mr. Loveless stated he agreed with a lot of what had been said. He had no argument with the concerns regarding the health risks of second hand smoke and thought they were real. He noted there were conflicting statistics about the economics of the smoking ban where some indicated it was great, while others did not. He, like Mr. Hutton, hoped, if this passed, they did not see anyone driven out. He felt this ordinance was a significant intrusion of this government on the management of private businesses. He noted there were those that stated this was done frequently, but felt that did not make it right. He believed that if a government was going to intrude upon a business and make a management decision, there had to be an overwhelming public benefit or public health crisis. He questioned who would be provided additional protection. It was not the patron because they chose to go there. It was not providing protection to the owner or management because they were the ones deciding to allow smoking in their venue. That left the wait staff and an occasional musician. He noted there was no smoking in the kitchen and there was a door separating the kitchen from the rest of the restaurant. He pointed out that statistically 20 percent of the wait staff were smokers. In addition two-thirds of the restaurants in town were already smoke-free. That left 80 percent of the wait staff in one-third of the restaurants in Columbia. He thought that ended up being about 25-30 percent of the wait staff in all the restaurants in town. He wondered if that was a large enough public health crisis for this Council to dictate to bars and restaurants a management decision and stated he was not convinced that it was. He agreed with the end result and would like to see everything smoke-free, but could not resolve himself to the fact this was the prerogative he should exercise here. He noted he could not vote for it.

Ms. Nauser stated she did not know how she made it this far in life because both of her parents smoked, she sat in the backseat of cars without a seatbelt, and rode bicycles and horses without helmets. She did not need the government to tell her what she needed to do. A couple weeks ago, she went into a restaurant that allowed smoking. She made a personal choice. She understood people saying they wanted a progressive community, but felt that when local, state and federal government imposed upon a person's choice, they became regressive. She asked where it would end. She noted there were communities that did not allow people to smoke in their cars with the windows down. There were also communities that wanted to take children away if the parents smoked near them. Now, there were communities that wanted to ban transfats because people could not decide what to put in their mouth. She wondered where it would end. People had choices. This Country was founded on people making personal choices. She believed this society was becoming weak because people wanted the government to make choices for them on everything. It was time for people to stand up and make their own choices. This Country had many opportunities for people. She did not agree with the argument that people working in a restaurant had no other choices. She noted restaurants and bars had the highest turnover of employees next to retail. She did not know where the idea of people having no choice came from. She commented that they wanted to attract people and conventions to come to this community. She questioned why the Elk's would want to come to Columbia for a convention when smoking was not allowed. They could go to Jefferson City or Boonville. She thought the same was true with sporting events. There were many people and parents that smoked. She stated she agreed with Mr. Loveless. She felt this was an over-reaching government intrusion upon private enterprise and a person's choice. She thought it was time for people to make their own decisions.

Ms. Hoppe commented that when she was in the ninth grade, she read a book titled "The Jungle" by Upton Sinclair. The same argument was made in that workers could choose to not work in meat factories that did not have any safety products and buyers/consumers had to beware of the possibility of eating a few fingers with their hotdogs. She stated government regulated things to protect people's basic health and safety. This ordinance was extended to public offices and businesses. She was sure they made the same arguments the businesses were making today. She did not see why these businesses should be exempt from protecting their workers or the people that walked into their businesses. She believed this was a logical extension of protecting the public welfare. She stated she agreed with Mr. Hutton and Mayor Hindman regarding choices. She commented that she lived close to downtown and wanted to go to music establishments, but noted there were not many smoke-free choices. She felt they would be appalled if someone put "people in wheelchairs not wanted and not welcome" on a business. Allowing smoking was saying to people with asthma, allergies, or cancer or those trying to quit smoking that they were not welcome and not wanted. She knew a lot of young people who quit smoking, but could not make a choice between going out and socializing or staying home. She believed they had a great opportunity to help young people to quit or to not start smoking by not exposing them to smoking in social situations. She felt this was crucial for a University community. She also felt they needed to look at the bigger picture in terms of business and economics. They were trying to attract high quality professionals and were

competing with other towns and universities for students. She thought, in the long term, this would be good for business and public health.

Mr. Janku stated he wrestled with some of the issues Mr. Hutton wrestled with on the economic impact. He noted he received an e-mail, which referred to some restaurants in northern Columbia and indicated that 95 percent of their patrons were smokers. A speaker earlier indicated 68 percent of the persons at the one night clubs were smokers. Mr. Loveless stated the approximate ratio of people wanting non-smoking and smoking was 80/20 or 70/30. He felt a lot of people were not participating in the market right now. He hoped that would address the economic concern. He received another e-mail noting everyone at a particular bar smoked and 80 percent of workers smoked. If that was true, either only smokers were applying for these jobs or when a person started working there, they tended to start smoking. He believed there was more of a public health risk. He agreed they had a lot of choice in terms of higher quality restaurants, but the bars had heavy smoking and those workers and patrons were at a much greater health risk. He believed there was evidence of the health risk that justified their vote.

Ms. Crayton stated she agreed with Mr. Loveless and was concerned with the government reaching into people's lives. She noted she did not smoke, but her mother smoked and she believed she and her mother had the right to go where they wanted. She felt it should be her choice of where she wanted to go.

The vote on B407-06, as amended, was recorded as follows: VOTING YES: HOPPE, HINDMAN, JANKU, HUTTON. VOTING NO: LOVELESS, NAUSER, CRAYTON. Bill declared enacted, reading as follows:

Mayor Hindman thanked the people that participated in the Council meeting tonight and those that provided correspondence by mail or e-mail prior to the meeting.

The meeting adjourned at 12:47 a.m.

Respectfully submitted,

Sheela Amin
City Clerk