COUNCIL OF THE CITY OF WINNIPEG
Wednesday March 26, 2003

The Council met at 9:35 a.m.

The Clerk advised the Speaker that a quorum was present.

The Speaker called the meeting to order.

The opening prayer was read by Councillor Lazarenko.

ROLL CALL

Clerk: Mr. Speaker Councillor O'Shaughnessy, His Worship Mayor Murray, Councillors Eadie, Angus, Clement, De Smedt, Gerbasi, Lubosch, Pagtakhan, Smith, Steek, Steeves, Thomas, Vandal, Wyatt and Lazarenko.

INTRODUCTION AND WELCOME OF GUESTS AND ANNOUNCEMENTS

Mr. Speaker: We have three Pages with us this morning. All have been here before.

We have Samara Carroll of Joseph Wolinsky Collegiate who resides in the Charleswood-Tuxedo Ward. Welcome back.

We have Shoshana Coodin of Joseph Wolinsky Collegiate who resides in the Old Kildonan Ward. Welcome.

And we have Nicholas Plett who is home schooled and resides in the Transcona Ward. Welcome back.

We have a special motion of condolence. Would the Clerk read the motion please.

Motion
Moved by Councillor Clement
Seconded Councillor De Smedt

THAT Council place on record its profound sorrow at the death of James A. Eadie, father of Councillor Jae Eadie, which occurred on March 6, 2003.

This Council extends to Councillor Eadie, his wife Rhoda, and their family, its deepest sympathy and condolences in their bereavement.

(Moment of Silence)

MINUTES

Councillor Smith moves the Minutes of the meeting held on February 26, 2003 be taken as read and confirmed. All in favour? Contrary? Carried.

COMMUNICATIONS

Councillor Wyatt moves the communications which were received too late to be placed on the regular agenda be received as information. All in favour? Contrary? Carried.

We have seven delegations listed before you this morning, four on smoking, three on body piercing. Councillor Lubosch.

Councillor Lubosch: Mr. Speaker, I understand there are a few additional delegations, somewhat more than a few Mr. Speaker. There are a number of delegations that have come forward and are interested in speaking to both those issues, and I would like to move suspension of the rules in order to hear additional delegations today, particularly for the smoking by-law.

Mr. Speaker: They're all for the smoking by-law.

Councillor Lubosch has moved suspension of the rules in order to hear an additional 13 delegations, bringing our total to 20.

Councillor Angus: Mr. Speaker, in order to sort of keep people focussed on the main message and to avoid redundancy, can we perhaps suspend the rules but limit everybody to five minutes in speaking each on the subject?

Mr. Speaker: They're all limited to five except the initial speaker anyway.

Councillor Angus: I want to make sure that we make that clear that we don't need to hear the message over and over again on the same issue.

Mr. Speaker: Councillor De Smedt.

Councillor De Smedt: Could we see the listing of these additional delegations so we could make a reasoned judgement about how many we really should hear. I mean if we're going to hear the same message over and over again. We've already had public hearings.

Mr. Speaker: The additional requests I'll read out before the vote if you wish.

In support of the by-law, these are all on smoking, in addition to what's before you, you have Dr. Sandy Harlos. Mike Kowalson representing Salisbury House of Canada. Dr. Mark Taylor. Aaron Yanofsky, representing Manitoba Youth for Clean Air. Evelyn Yanofsky on behalf of Concerned Adolescents Respecting their Environment. Lise Martine.

In opposition you have Patrick Munroe from Grape's Leon Centre. Jim Baker from the Manitoba Hotel Association. Leo Ledohowski of Canad Inns. Joe Bencharski. Gordon Anderson, Oppressed Minority Alliance. Jeff Glover, Old Spaghetti Factory and Bruce Gouriluk, Big Guys Ranch and Saloon.

Councillor Gerbasi: I just wanted to comment that…

Mr. Speaker: No comments. Request for information were fair but it's not a debatable motion as such.

Moved by Councillor Lubosch that we allow 13 additional delegations on the smoking issue. Each would be given five minutes. A recorded vote has been asked for. I just remind Council that all recorded votes will have to be asked for before the question is put as was announced at the last meeting. All in favour of suspending the rules please rise.

A RECORDED VOTE was taken the result being as follows:

Yeas

His Worship Mayor Murray, Councillors Angus, Clement, De Smedt, Gerbasi, Lubosch, Steek, Steeves, Thomas, Vandal, Wyatt and Lazarenko.

Nays

Councillors Eadie, Pagtakhan, Smith and Mr. Speaker Councillor O'Shaughnessy.

Deputy City Clerk: The vote Mr. Speaker, Yeas 12, Nays 4.

Mr. Speaker: The motion is carried.

Begin delegations. Our first delegation Robert Kreis, Chairman of the Board, Winnipeg Chamber of Commerce, in support of Item No. 1, Protection and Community Services dated March 3, 2003, regarding the smoking by-law.

DELEGATIONS

Mr. Robert Kreis: Thank you Mr. Speaker and members of City Council.

The Chamber is pleased to present our membership's position on what has become a highly contentious and divisive community issue. An issue we hope is brought to a conclusion here today.

The Winnipeg Chamber of Commerce is the largest organization representing the collective voice of business in Winnipeg. Our membership includes greater than 1,400 corporate members employing an excess of 70,000 citizens.

(9:45)

While some business groups may represent a particular sector or size of business, the Chamber represents all business, small, medium and large for a wide cross-section of industry.

Let me begin by stating that the Chamber is not here to debate the health ramifications of smoking. We will leave that to the medical experts.

That said, I urge you not to allow your personal views on smoking whatever they may be to determine the ultimate outcome. Rather the decision rendered here today to be effective and embraced by business must be one that is based upon a series of core business beliefs and principles.

As an organization, The Winnipeg Chamber of Commerce believes strongly in these principles. Not only as they apply to the smoking by-law but all matters effecting business as well. These principles are as follows.

Responsibility and accountability must be determined to assess which level of government should be taking a lead on this issue. Equitable treatment must be adhered to in the development and application of any by-law affecting business. An appropriate transition time must be afforded businesses that are impacted by any change to all employers to adjust with as little impact on their business activity as possible.

Lastly the process must bring predictability and certainty in the regulatory framework in which Winnipeg businesses operate to avoid short term measures.

To the first principle, Winnipeg Chamber of Commerce is adamant in our belief that regulation of smoking in indoor public places such as workplaces is a provincial responsibility. Employee health and exposure to second hand smoke have been the primary considerations as they should be during the course of this debate.

If employee health is the basis for action then that action must come from the Provincial Government as the body responsible for workplace health and safety.

Specifically the Chamber recommends that the Provincial Government show leadership by enacting province-wide legislation governing smoking in all indoor public places. The Chamber is hopeful that the Provincial all party committee studying the issue will conclude its work quickly, and that the Provincial Government will implement its recommendations in a timely fashion. Until such time as the Provincial Government acts, the Chamber urges the City of Winnipeg to establish a by-law which is fair and equitable in its application. The current by-law which restricts smoking in some establishments but not in others, creates artificial competitive advantages and disadvantages depending upon the type of enterprise. As such the current by-law stands in opposition to the business community's core belief in a level playing field for all.

The total smoking ban proposed here today to the extent that it re-establishes a level playing field for all business is consistent with the Chamber's principle of fairness.

The Chamber does have some concerns with the abbreviated transition period that the City is proposing in implementing the total ban. An effective date of July 1 represents a mere three month window for business to implement a significant change not only to their operations but in the mindsets of their clientele as well.

With respect to adjustments to the minimum wage, the Chamber has traditionally advocated a six month implementation period. Therefore, the Chamber recommends that the City expand the smoking ban transition period to no less than six months with consideration given to an even longer period.

In conclusion, the Chamber urges City Council to identify a process that brings closure to this issue. Business to operate effectively requires a sense that the regulatory framework governing its operations is not in a constant state of flux. Consistency and predictability in the business environment is critical. The Chamber implores Council to deliver that predictability by ending this debate correctly and decisively. Thank you.

Mr. Speaker: Thank you. It is the tradition of Council when we suspend our rules in order to hear additional delegations on issue that we do not permit questions, that has always been the case. To date is it your wish that we allow questioning on these 20 delegations as well as the time?

Councillor De Smedt: I think we've heard a lot of questions for additional delegations over the four and half years that I've been here. I really respect that

we permit questions and I would like the speaker that just appeared and the delegation to come back for a few questions if I may please. I would like to propose that.

Mr. Speaker: In the four and a half years you have been here it's my opinion that we have never allowed when we suspended the rules we have never allowed questioning as is self-repetitive. However that is your request. It's not a rule, it's just a tradition. Is it the will of Council that we question the people? I hear no one arguing against.

Mr. Kreis would you return and permit unlimited questions from councillors who have already made up their mind on the issue please.

Welcome back.

Councillor Smith and then Councillor De Smedt.

Councillor Smith: Sir, a year ago we passed a by-law. How come you are now changing your position as the Chamber? Why did you not say what you're saying today a year ago?

Mr. Kreis: As a point of clarification we did not take a position a year ago on the by-law. At that time the by-law was really driven around the issue of smoking versus non-smoking which we still believe is a personal choice. This time we have taken a position because the current by-law really deals with health and safety in the workplace which is an issue that does affect business. Smoking or non-smoking is a personal choice.

Mr. Speaker: Councillor De Smedt.

Councillor De Smedt: Mr. Kreis I really would appreciate some clarification. First of all I take from your remarks that really you are suggesting that really this is a provincial responsibility, is that correct?

Mr. Kreis: That is correct.

Councillor De Smedt: Supplementary. In light of that, you've come out strongly saying let's be decisive and act here. Would your first recommendation not be that we lay this matter over and put it in the hands of where it rightfully belongs?

Mr. Kreis: Unfortunately we have a current by-law that is on the books now which presents an uneven playing field for business. To simply put this aside and wait for the Provincial Government to act or not act would simply extend the hardship that some businesses are facing under the inequity of the current by-law.

Mr. Speaker: Final supplemental Councillor.

Councillor De Smedt: I do think the magnitude of that unevenness is rather dramatically overstated I think Mr. Kreis. But my question is really related to the by-law that is presented to us here today.

What is your view of private clubs?

(9:55)

In other words, we are introducing and there is a complementary additional motion coming forth here that private functions and private clubs of course as contained within Option 2 that is being proposed be eliminated from this process. How do you feel that that abrogates the responsibility of private enterprise to be in business should they choose to go into a private club mode?

Mr. Kreis: Again the Chamber's position is one that is based on business principles. We believe that any regulation any by-law needs to be fair for all business enterprises across the board. We have now got a situation where it is not fair across the board, and to introduce anything that would not bring us to equity would not be in keeping with our basic principle.

Mr. Speaker: Thank you. Our next delegation, Theresa Ducharme. Also in support of the same clause.

Ms Theresa Ducharme: Mr. Speaker, Councillors, I'm proud to be here today, thank God for less smoke in the public areas that you've passed in the last little while.

My presentation is on behalf of the People in Equal Participation Incorporated. We support fully the permanent public non-smoking by-law. It's PEP's understanding that public smoking is one of the worst and most harmful and crucial deathtraps. We believe that a permanent public non-smoking by-law is greatly needed due to the daily hazardous side effects of smoking. If we were meant to smoke we would have been born with a chimney on top of our heads. That's why I'm here with my chimney honey. To protect our well-being involves avoiding hazardous smoke equal access is non-existent in public places such as community bingo halls and then there's a battle between the Provincial bingo halls. You have to walk through all the smoke before you can find your equal access which is only one quarter of the bingo hall. You want to know where that little table is that you can only have eight people around you to play bingo where all the 90% are smoking and enjoying their hazardous fulfilling a habit, nobody can afford taxes but they can all afford smoking. I don't know how in the hell that ever came about. I can't understand, and they say you cut the taxes, cut the taxes, no. If they had smoking packages, $25 a pack everybody would have a dollar and everybody would make sure that they had money for cigarettes. But they don't have money to pay their civic taxes. Isn't that unbelievable.

At the same time, due to my life supports condition since the age of 8, and I'm still alive and kicking honey, I'm continuously having to ward off individuals habits of smoking to meet my basic comfort needs. It's PEP's guaranteed mandate to assure the general public's safety and protection from the daily hazardous fumes of individuals who smoke in their presence. Please ensure the general public gentlemen and ladies that the emotional, physical and medical well-being will be maintained by implementing a complete public non-smoking by-law. I look forward to the positive results of your educational knowledge, making the right decision in implementing a complete non-smoking by-law. I congratulate you on what you've done in the past and I look forward to your positive action in the future. God bless each and every one of you because we'll all meet in Heaven one day. Non-smoking.

Mr. Speaker: Thank you.

Next delegation in opposition to the clause is Bob Stevens, President and CEO, Manitoba Restaurant Association. He'll be followed by Steven Duncan. If Mr. Duncan could come down and be prepared as well.

Mr. Bob Stevens: Mr. Speaker, City Council, thank you for the opportunity to speak here today.

Starting off, I'd first like to maybe talk a little bit about the process. It's unfortunate people such as the group that I represent and others do not have an opportunity to see exactly what we're talking about. We had to register last week for or against something that is a moving target. We have a general idea it's a total ban but as of yesterday there's changes being made all the time. To be able to speak intelligently, I think we should have the final document in front of us in advance.

Restaurants over the years I'm quite proud of the way they've handled the by-law since 1983 when they're first put in with a 50-50 by-law, they took it and they ran with it and they actually increased over the years to where most of them before 2002 were 75% to 100% non-smoking, and they did this as a request from their public and did a good job of it.

I'm quite pleased with what they did, and the conditions in the restaurants prior to the by-law of last year, from a non-smoking standpoint myself were acceptable to me.

I understand today the by-law it's pretty well-known that there will be a total smoking by-law, so I'm here today to try and minimize the impacts of it to try and prevent another disaster like we had last year.

What we're asking for is a little bit more time to adjust to it, to work with the Province to ensure that the Casinos come

on as well because a recent survey said that 75% of people believe it's still should be a provincial issue than municipal, but we need time to make sure that this level playing field is actually level and everybody is playing at least in Winnipeg by the same rules.

If we can do that and we can get a little bit more time I'd like to see about a year or two doing it next spring as opposed to in July 1 would be more acceptable to us.

We will survive the total ban, there's no doubt about it. But there will be some casualties along the way. The numbers in the end will still look like the restaurant industry is doing well because others will come in to fill the gaps.

It's unfortunate these faces are going to be lost in the crowd. Some people will lose their livelihoods because some people do rely on a heavier smoking clientele than others. We may never know who they are or where they are afterwards but that's one of the casualties I'm afraid.

I feel with an exemption or with a little bit longer period that we'd be able to minimize these effects and try and help these people adapt their businesses in the meantime. Thank you.

Mr. Speaker: No questions, thank you.

Next Steve Duncan, Manitoba Medical Association also in opposition to the item.

Dr. Steve Duncan: Mayor, Councillors, my name is Steven J. Duncan, I'm a general practitioner from Brandon, I'm President elect of the Manitoba Medical Association. I, too am here a bit of a confusing situation in that with what we understood the by-law to potentially exempt last week we felt we had to stand in opposition.

We understand that subsequently there's been some further discussion and I feel more optimistic that if some of those exemptions are taken off the table then the Manitoba Medical Association will be able to support a by-law.

The Manitoba Medical Association has always sought a comprehensive environmental tobacco smoke by-law which prevents smoking in public places.

(10:02)

Our concern was that late last week we understood that the by-law may exempt private functions. In probing us to what that meant it could mean anything from community clubs to socials and the like. We feel that if you put that exemption in it will be abused. The data from other jurisdictions that have done that type of by-law is pretty clear that there's a strong risk of abuse.

The second concern that we have is with the idea of tobacconist shops. I'm not terribly familiar with what one is. From the data I received late last week, it's suggested it's a place where people can go to buy speciality tobacco products. If you are not very very careful we know cigarettes are available in convenience stores and everywhere else, and I think if you're going to exempt tobacconist shops you have to be extremely careful about what you mean by that.

To close and I would like to just say that, we are very pleased to see continued movement on this issue. Coming from Brandon I spent a year and a half trying to support a comprehensive by-law in Brandon, and as of September 1, 2002, we have one. There isn't a week goes by that in my practice I don't hear about the positives of that by-law. I'm quite convinced that it's the right thing to do. We certainly know it's the right thing to do in terms of reducing exposure to second hand smoke to the patrons to the workers. We also know that it can help reduce the uptake of smokers, and even among my smoking patients, many of them are saying, it's helping me quit. These types of comprehensive by-laws are long overdue. I could discuss and debate some of the comments that we've heard here today but I will close and invite questions.

Mr. Speaker: No questions, thank you. Late addition. Excuse me. Councillor Wyatt has decided to ask a question.

Councillor Wyatt: My first question Mr. Speaker.

Do you support a province-wide ban?

Dr. Duncan: Do I support a province-wide ban? The Manitoba Medical Association is certainly on record as supporting a comprehensive environmental tobacco smoke ban.

Whatever government brings it in we know that in most instances these by-laws take place at a municipal level and they can move to a provincial or state level. The best example of that is California where initially in the early '90s various municipalities brought in these types of by-laws, and the momentum continued to move until California went state-wide in 1998.

Mr. Speaker: Supplemental Councillor Wyatt.

Councillor Wyatt: Thank you very much for your answer, and thank you for your presentation today.

I was surprised at our March 3 meeting on this, representative Dr. Taylor when I asked him the question, if he had an opportunity to meet with the Premier on this, indicated that the Association has not met with the Premier. Have you since met with the Premier on this to raise your concerns that there should be a province-wide ban?

Dr. Duncan: To my knowledge we have not. We have certainly had an opportunity to meet with the Minister of Health. Dr. Taylor is also speaking today and I'd invite you to put that question to him. To my knowledge we haven't had an opportunity to speak with the Premier about this issue.

Mr. Speaker: Final supplemental.

Councillor Wyatt: Final. Do you intend to meet with the Premier on this matter?

Dr. Duncan: We certainly intend to meet with the Provincial Government on this issue. We understand there's an all party committee that has been formed. It appears that there's a great deal of support for what Brandon did. I completely and honestly believe that there will be a great deal of provincial support for what you do, and what you do is very very important. If you think you will be successful in moving this to the Provincial Government by not taking a decisive act as I heard the Chamber of Commerce state, I beg you not to make such a decision because leadership is about making some tough decisions, and I had to make a decision as to whether I wanted to take on this issue. I'm very glad I did. It's a greatest public health issue that faces most people in their daily lives. I think that this Council can do the right thing today.

Mr. Speaker: Councillor Lubosch followed by Councillor Smith.

Councillor Lubosch: Thank you Mr. Speaker. And thank you Dr. for taking the time to present to us here today.

Just to be absolutely certain you understand the amendment that has been proposed to the motion to the by-law which would ban smoking at private functions which are held in public places, ostensibly banning it in community centres and banquet halls etc.

Is the Manitoba Medical Association now unequivocally completely in support of the by-law that's being moved by Council today?

Dr. Duncan: I believe we support that. As I said in my presentation there were two exceptions that raised concern. I guess I certainly support what you said, I'd invite some feedback as to what it means, what is a tobacconist shop and are they going to be allowed to proliferate. That's our concern. If you tell us that existing tobacco shops the way they're set up now is what we're going to see, again I don't know what they're all about but if you tell us that a tobacconist shop could be the corner store and then we will have some significant concerns about that. Can you give me some feedback?

Mr. Speaker: Supplemental.

Councillor Lubosch: Supplementary question in the form of are you aware. Tobacconist shops currently are retailers of tobacco products and from what I understand the by-law will not allow a situation to develop where these types of retail outlets would proliferate in beverage rooms and bars by definition.

Mr. Speaker: Are you aware or not?

Dr. Duncan: I wasn't aware of all Winnipeg defines a tobacconist shop.

(10:10)

Mr. Speaker: Final supplemental.

Councillor Lubosch: My final question is with respect to personal care homes, particularly privately run for-profit personal care homes. They currently are exempted under the by-law, they allow residents to have smoking privileges and in my conversations with workers in these establishments there are cases where employees actually have to start the cigarette for the patient and then hand it to the patient or resident and supervise the patient while they're smoking the cigarette.

Is it the MMA's intention to continue to lobby the Provincial Government to enforce a workplace health and safety standard that would eliminate cigarettes from those types of workplaces?

Dr. Duncan: Possibly Dr. Taylor may have more to say on that specific question.

I believe that in Brandon the current by-law in Brandon which we've endorsed as an association does make allowances for the persons, that's their home now. If they've been transferred from hospital or from their original home to a care home, that is now that patient's home. I think just like in any other persons home this by-law is not or an environmental tobacco smoke by-law is not meant to be directed at interfering with what people do in their homes.

Regarding a workplace health and safety issue, I presume that each care home will have to ensure the safety. When you gave the example of a worker lighting somebody's cigarette, I would presume that's because that person otherwise would be at risk of starting a fire or dropping a cigarette, in that certain circumstance you've got to weigh relative risk.

I would suggest it's probably a few cases, and I'm sure individual care homes could arrive at a solution.

Mr. Speaker: Councillor Smith.

Councillor Smith: Dr., if we pass the smoking ban today do you not think this will encourage the Provincial Government to not allow smoking at the Casinos? Do you think that the pressure of us passing this today will be encouraging for them to have the same smoking policy at the Casinos?

Dr. Duncan: Absolutely. I think if you pass a comprehensive environmental tobacco smoke ban today, you will assist the Medial Association in its efforts to encourage the Provincial Government to move it provincially and include the Casinos and all workplaces.

Mr. Speaker: Supplemental Councillor Smith.

Councillor Smith: Your Association would you not be willing to take a stand regarding the Casinos at this time?

I know you want a provincial ban but I think the first immediate step is to encourage them to not have smoking in the Casinos, is that not so?

Dr. Duncan: Well we're not going to isolate, we didn't agree with the idea of isolating restaurants and bars, we never have. We don't agree with isolating casinos from restaurants or bars. We want a comprehensive by-law that levels the playing field and protects the workers and the patrons. We believe that that's the way to go.

Mr. Speaker: Thank you. Next delegation would be Eric Johanson on behalf of Soul Survivors Body Art in

support of Item No. 5 of Protection and Community Services dated March 10.

Followed by Jason Berezak then Brent Moffat of those coming to speak could come and take a seat behind the podium.

Remind while we're waiting members of Council, on all questions after the first question on all supplemental they'll be no preamble.

Mr. Eric Johanson: Good morning, members of Council, Mayor Murray.

My name is Eric Johanson the owner of Soul Survivors Body Art and a practitioner of body piercing since 1989.

Having been in this industry for this many years I've been able to see the changes in it from within. That is why in '95 I began to try and institute some improvements in my profession in the form of a municipal or provincial by-law, that not only covered tattooing but also body piercing, branding and scarification.

Many of these things might sound kind of crazy to you if you're not familiar with them, but they are every day practices in our world.

At present we do have a by-law covering tattooing but it is very very dated. In 1999 I met Councillor Gerbasi who I'd like to express my thanks to as she's been an integral part of the progression of this proposal.

On May 7, 2001, I presented the Standing Policy Committee with a letter of what I felt to be issues of concern pertaining to the tattoo and body piercing industry. Among these points were individual licensing as opposed to just studio licensing. Designated biohazard areas and studios, which means an area specifically and is separate from the public for cleaning soiled tools. Age restrictions and mandatory sport instruction testing which is about testing an autoclave, to clarify these if anyone has any questions.

I do have copies of this letter if anyone would like to see it.

Having seen the proposal for the new by-law I feel it is very much on the right track. I don't feel that it's necessary to rehash the whole proposal as I'm sure you've all had an opportunity to read it.

The proposal covers many pertinent health issues as well as licensing concerns and cost to the City, which if I'm not mistaken is almost all cost recoverable from within the tattoo and body piercing industry itself. So financing for this should not be an issue in my opinion.

The one thing to keep clear in mind is the main or even possibly the only real focus of this proposal is that health, welfare and safety of any individual walking into a tattoo or body piercing studio in Winnipeg. By this I'm referring to Joe Public, someone with no real knowledge on the industry and the health practices.

Another point raised in the proposal addresses implants which refers to objects being inserted under the skin entirely. I have had this procedure done myself. With that being said though, I do strongly agree with the proposal suggestion for this procedure to be illegal and not offered to the general public by tattooing and body piercing studios. Procedures much more invasive than the before mentioned ones and therefore is inherently more dangerous.

Myself and other individuals that I know that have undergone these procedures have all gone to great length and travel great distances to individuals who specialize in these procedures not tattoo or body piercing artists.

(10:20)

And fully understand the ramifications of such.

I'd also like to add that the people I know who have undergone these procedures, are industry professionals and have a much better grasp on the possible consequences to themselves then the general public probably would.

The proposal also encompasses branding and scarification which they group in the same category as tattooing and body piercing. I would tend to agree with this approach as I believe these procedures are similar in their level of invasiveness.

I think it's necessary to clarify just how invasive these procedures are as many of you probably have never been in a tattoo or piercing studio.

It is my belief that these procedures should be treated along the same level as a doctor administering an injection or removing a skin tag in his office, a lab technician drawing blood or a dentist extracting teeth or performing a root cannel or filling. These are all clean procedures, not sterile ones. There's a big big difference. I'm not saying the tools are not being sterilized in these procedures but the procedure itself is not considered a sterile one. This is what we're doing, this is the same level of what we're doing every day.

I feel it could be very easy to become over zealous with restrictions and this would in turn drive these practices underground worsening the problem. We as body modification artists are not performing deep caverness invasive surgeries that require a sterile room, sterile clothes, sterile hair. Some individuals may try and lead you to believe that these prerequisites are necessary as I have outlined in the before mentioned occupational comparisons, I don't think that to be a fact. I understand there will be opposition to the proposal. I believe any opposition to be ludicrous. The health, welfare and safety of the general public should be paramount to any personal issues. If an employee from my studio should adopt the stance of opposition to this necessary proposal, as a professional concerned with the public safety I would have no other option other then to let them go.

Any objections to this proposal in my opinion are stall techniques even if they're disguised as concern for the proposal not being in-depth enough. I do not believe that any serious professional in the body modification industry would have any objections to this proposal going through.

At this moment we have minimal regulation on tattooing and nothing in place on body piercing, branding and scarification. Nothing. So how could this proposal not be an improvement on nothing.

Again, I would like to reiterate that the sole purpose of this proposal is to make certain all studios operating within Winnipeg will meet a minimum basic standard which in turn would protect the health, welfare and safety of the general public.

I would also like to put forth in my opinion, if the proposed stated individuals or studios in violation should receive the heaviest fines permitted on their first offence and repeat offenders should have their licenses revoked.

In closing, I feel it is worth mentioning that I put seven plus years of my time into this effort. Jason Berezak, Steel of Beauty Body Design formerly Experience of Beauty has been the only other practitioner continually involved with this since 1995. Some Johnny Come Latelies have popped up in the last few weeks, I believe this is because of media attention. I'd like to ask them why they were not involved sooner if they were genuinely concerned with the public safety. If they're not from Winnipeg then why not in the city you one time called home.

I believe that this proposal is a huge step in the right direction. There's really nothing but good that can possibly come from it if it isn't stated.

Right now Winnipeg has the opportunity to be groundbreaking in this area as no other cities have formed such legislation at this point. Why should we wait for Toronto, Montreal or some other city to form legislation and be a follower when right now we have the opportunity to be a leader. Because I believe eventually all other cities will follow suit as these are major health issues.

This proposal may not be perfect nothing in life is, and over the next year I'm confident the necessary amendments will be made. I may not personally agree with every aspect of this proposal but if instated in my studio and Jason in his studio will follow it explicitly. This is not about my personal feelings or dissecting a proposal word by word, it's about public health, welfare and safety.

I'd lastly like to offer my continued assistance to assure the reasonable and fair statement of this proposed by-law. Thank you.

Mr. Speaker: Thank you. Next delegation Jason Berezak, Experience the Beauty in support of the same item.

Mr. Jason Berezak: Good morning. I'd like to start off by saying thank you for giving me this opportunity to speak in regards to the much needed by-law that will cover the practice of body modification.

My name is Jason Berezak, owner as well as piercer at Steel Beauty Body Design. The studio until recently known as Experience the Beauty.

I would also like to thank Eric from Soul Survivors as well as Jenny Gerbasi for the continuing fight in making this by-law finally beginning to happen.

I definitely feel that the basic outline of the proposed by-law is a step in the right direction.

As in any by-law will offer the customer some level of peace of mind in regards to the safety of the modification procedure that they have chosen to have done.

I stress that it's amazing that the more this by-law is pushed the more I begin to realize that a lot of practitioners are more concerned for themselves instead of the clients well-being and safety. By this I mean, should the concern be that this by-law will cost us some extra money as practitioners or that we might have to do some renovations in order to keep our shop running to minimum standards. I feel that the only concern should be client safety, period. How can this by-law not be a truly positive change? Of course it will not be perfect, I don't expect it to, but at least it's a start and I'm a hundred percent in favour of it, regardless of possible costs as well as any extra effort if required.

Even if there is one thing and one thing only that comes from all this effort, it will be worth it. It is one thing to protect the public is better than what we have now for protection which is absolutely nothing.

I'm amazed as well as question the integrity of any individual that would call themselves a professional piercer, but then in the next breath object to the by-law when it is clearly an issue of safety. This issue has nothing to do with advertising or self-promotion, it is to do with the safety of the public. I also feel that this by-law helps ensure that I will not have to close due to the City's outlawing body piercing due to someone with no experience doing something stupid and harming another person. Because as you all know anyone here today can rent a space tomorrow and hang up a sign and call themselves a piercer. For some reason automatically be trusted on the issue of health and safety of the general public.

You are protected from restaurants, hair salons and smokers, but not from the person who just decided that they're now a body piercer. We can all get over food poisoning or a bad hair cut but HEP, HIV is not all at this time something that we can fully recover from. This by-law of course will not protect the public from getting poor quality work but hey, getting a crooked piercing is one thing, contracting a blood borne disease while receiving that crooked piercing is another. So for anyone thinking that this is a way to try and shut down anybody due to the quality of work that they do, that is not all the case, but I feel that if the way I or any other person in other shop conduct procedures put someone at risk then of course they should not be able to continue to operate. I don't care if I don't win any brownie points or have my picture in the paper by speaking today, I'm only

concerned with is bettering the industry that I'm a part of.

Thanks again to Eric who I feel in the past has done a fantastic job on speaking on behalf of myself and my shop.

Mr. Speaker: Thank you. In opposition to the clause we have Brent Moffat.

Before you start, Mr. Berezak are you still here? If you can come back please, I'm sorry missed a question.

The Mayor has a question.

Mayor Murray: Thank you very much Mr. Speaker. Very quickly. I would just ask if Jason and Eric would come back in a year and let us know how it's being implemented and if you have any suggestions? Just before you answer the question I just want to put on the public record it is very unusual for us Mr. Speaker to have people in an industry, young people come forward concerned about the health and professional standards in an industry and its impact on other people.

(10:28)

For particularly for Eric and also for Jason this has been several years of saying, our industry has to have the highest and safest standards of every industry. If every industry in the country did that, it would be one of the safest and healthiest cities in the country.

I want to thank them for their leadership and their citizenship, I think they're a good role model for others. As I've said, I hope you'll evaluate this and come back and see us in a year, maybe you'd like to comment on how we should be working with the industry from this point forward.

Mr. Berezak: Any help that is needed from of course on Eric's part as well as myself, we'll be happy to stay with it as much as possible.

Mr. Speaker: Before we hear the next delegation I would like Council to note the sudden and great improvement in the appearance of Councillor Smith.

Mr. Moffat.

Mr. Brent Moffat: Thank you Speaker and Council members.

I'm against this by-law as it stands right now. Because right now our average piercer has very little to no training in any of the health fields that's become very applicable in this industry. I believe scarification and branding is the next step up where we're now using scalpels and cautery pens, so on and so forth on a human being. If they don't have the training at a piercing level how can they expect to be using a scalpel.

I believe scarification and branding should at this point in time be taken out of the by-law and be effectively made illegal for this point in time, until a proper curriculum can be set forth to ensure the safety of all parties involved. Not just meaning the parties of the client, there's also the safety issue of the practitioner. I bring up a case in point. Down in California a very well respected body modification artist by the name of Todd Bertrain is now up on charges in California for practicing medicine without a license for performing clitoridectomies and other body modification procedures which like here there is very little by-laws or legislation governing the medical aspect of this business.

As for piercing, any piercer who really cared, this is my opinion obviously, for any piercer who really cares for this industry and their clients would be more than willing to further their education in this field. And any good piercer should be willing to work together to meet these criteria. In my opinion any piercer who feels they're above further training truthfully shouldn't be in the business.

Now one other thing I mentioned at the last meeting was about piercing guns. They're not properly dealt with in this by-law either, and was brought up to me by a reporter when I left actually. Did I have any proof of the Hepatitis C accusation that they can transmit. At the point in time I didn't so I researched it on the Internet and I came up with, this is an

excerpt from the Centres for Disease Control down in the United States.

"Most importantly the cleanliness of the piercing gun method is questioned. Ear piercing guns are made of plastic which cannot be properly sterilized in an autoclave. Simply wiping the gun with a surface disinfectant between clients is not adequate when the gun could have possibly been exposed to blood borne pathogens. Piercing guns which touch the earlobe before and/or after the procedure can be easily contaminated with blood and possibly contaminated with a communicable disease i.e. Hepatitis and/or HIV".

One of the council members last time speaking also asked me to come up with maybe an idea for curriculum for piercing. Again I researched and passed this by several piercers that I know here in town and came up with a few ideas.

Number one. 1,000 hour apprenticeship, that would be all new piercers coming into the industry. This is done in several states down in the United States. Once they're done their apprenticeship they'd have to pass a final exam. This final exam would be created by as many piercers as we could get together in the industry here in Winnipeg. And of course the Health Board and everybody else involved too.

A nursing level anatomy and physiology course. We are making and putting holes in people's bodies, in some pretty invasive places. We should know where everything is and how it works in my personal opinion.

Standard first aid. Now I'm going to explain a few things here as it pertains to our industry.

Choking, God forbid a persons doing a tongue piercing, the barbell slips and the person starts choking on it. Are they prepared to deal with it?

Rescue breathing, I'll come to that in a second.

Bleeding. There are some procedures that bleeding can be if the procedure are done incorrectly can be very substantial.

Shock. As with any invasive procedure shock is a concern.

Wounds, lacerations and abrasions, that comes to our after care and proper after care.

Poison. We use an iodine solution at our shop for cleansing before we do the piercing. And we do ask our clients if they're allergic to either iodine or shellfish. There's always the chance that that client doesn't know. Then they could theoretically go into anaphylactic shock because of it. Are we prepared to deal with it?

Medical emergencies. Diabetes, Asthma. There was a girl down in the States, she was 13 years old had a heart condition and got an infection from a piercing because the piercer didn't ask her medical background and she died because of it.

CPRC. Adult and Child, infant isn't really applicable for the most part. We don't deal with infants in our industry. When it comes to rescue breathing and medical emergencies, CPR could be very helpful.

I have the costs written down, where you can take all of these courses here in town, so on and so forth. I'm more than willing to assist in any way. This by-law as it stands right now is actually going to create more problems than it's going to help because you're opening a door to allowing people to do things that are way beyond their capacity. Eventually somebody will end up either charged like this Todd Bertrain was or somebody will end up dead like that 13 year old girl was.

That's pretty much it.

Mr. Speaker: Thank you Mr. Moffat.

Move onto the additional delegations as approved by Council each to have five minutes.

Could the following delegations please come down behind the podium to get ready to speak in this order.

Dr. Sandy Harlos. Mike Kowalson. Dr. Mark Taylor. Aaron Yanofsky. Evelyn Yanofsky.

Dr. Harlos.

Dr. Sandy Harlos: Thank you. Mr. Speaker and members of City Council. Thank you very much for the opportunity to come and speak today.

(10:35)

I'm going to try and be very uncharacteristically brief knowing all the speakers that we have who have things they want to raise.

I am very pleased to be able to participate today because I think we'll look back on this day as being a real landmark historic day for healthy public policy in Winnipeg to the benefit of all Winnipeg's citizens.

What the decision is before you today really in essence is the opportunity to complete what was started a number of years ago when the issue was first raised and put before Council. I urge you to take this opportunity to make a by-law that serves us well, well into the future and that we actually complete what the original objective was to provide 100% smoke free places in all indoor public places in Winnipeg.

Medical officers of health have been consistent and clear on what the recommendation has been from a public health point of view since the discussion began in 1997, and we haven't wavered on that, and it remains to be 100% smoke free in all public places.

Today I don't want to spend the little time I have in regurgitating what I had the opportunity to present previously about the health issues or about any other policy or economic issues related to the by-law, I just really want to focus on two things today that would help us achieve that original objective of 100% smoke free places.

Those two issues are the exemptions that we've heard some concerns from other speakers already about, and the second thing is the timelines.

First of all on the exemptions. I certainly share the concern that if we continued on in discussing private functions being exempt I think there's many concerns that would raise and I think we would still have some work ahead of us to do to fully achieve the public health objective of protecting people in public places at all times and in all circumstances. I really urge you to be cautious about that and to go forward today with an even more courageous by-law that includes private functions. I think that is really key that we be cautious particularly with that and any of the other exemptions, that we ensure that the intention of the by-law remains 100% smoke free places in all public places.

On the second point, the timelines. I think the timelines as laid out in terms of a target date of July 1 are realistic and appropriate, and I would certainly hope that this would begin a wave of other activity either across the Province or in other municipalities but I certainly would not want to support waiting for any other level of government or any other action that would slow down this process. I think the timelines are appropriate. I think we need to move forward and I don't think there's any reasonable consideration for slowing this down or considering any alternative timelines.

I just want to again applaud City Council for what has already been achieved in making many more public places smoke free today than what were in the past number of years and really encourage you and bring all of the support from medical officers of health point of view but also from the Winnipeg Regional Health Authority to support you in making a very important decision here today that would make an enormous contribution to the health and well-being of the citizens of Winnipeg. I want to also commit that the Winnipeg Regional Health Authority and the medical officers of health in particular would be very pleased to support and

contribute to the acceptance and the promotion of this by-law as a very positive thing for Winnipeg. Thank you very much.

Mr. Speaker: Next delegation, Mike Kowalson, Salisbury House of Canada also in support.

Mr. David Mollins: Good morning. Your Worship Mayor Murray, Councillors and fellow citizens of Winnipeg. My name is David Mollins, I'm the Chief Financial Officer of Salisbury House of Canada.

The facts are clear, second hand smoke kills. On behalf of the 600 plus Salisbury House family of employees and the 30,000 plus individuals who patronize our restaurants every week, we thank you for support in working to bring about a full smoking ban in all public places in Winnipeg.

We recognize that this has been an extremely challenging issue for Council. The vast majority of citizens applaud your courage to vote in favour of their good health. Thank you.

Mr. Speaker: Next delegation Mark Taylor on behalf of the Manitoba Medical Association.

Dr. Mark Taylor: Good morning Mr. Speaker, Mayor Murray and the rest of City Council.

I can't tell you how delighted I am to be standing up here today and to be able to congratulate all of you for being as progressive as you are being in moving ahead with this legislation. You've all clearly recognized that the only way to go is a 100% law covering all indoor public places, and I think this is absolutely outstanding and Winnipeg will once again move to one of the cities in the forefront on this issue.

As in all legislation the devil is without question in the details. There are certain parts of the hospitality industry who will make every effort to find ways around the legislation and take advantage of every conceivable loophole. That's why I'm particularly delighted that you have chosen to eliminate the exemption for private social functions. Were that exemption to be allowed to continue in the law without question we would see a dramatic proliferation of private social functions in bars and hotels and every other conceivable place. The workers would continue to not get protection. The most important thing by far in this area is to protect the workers from the toxic effects of environmental tobacco smoke.

I have some remaining concerns as Dr. Duncan alluded to earlier about tobacconist shops. I have no particular problem with the existing tobacconist shops in Winnipeg being permitted to continue to have their cigar tastings that they want to have. But we have to be very careful with the wording to ensure that every bar, hotel, corner store does not open a tobacconist shop. That's critically important wording. Perhaps the law could allow existing tobacconist shops to continue but require ones in the future to apply for a specific exemption or something of that nature. There's all kinds of ways that can be dealt with. But the wording is crucial. I urge you in the drafting of the by-law to make sure those concerns are taken into consideration.

Once again I'm delighted to be able to stand here and praise you all. It's taken us a while but I think you've done the right thing.

Mr. Speaker: Councillor Lazarenko has a question.

Councillor Lazarenko: Dr. Taylor, I want to thank you for your commitment to what is a concern of yours.

A comment was made in the paper today you were quoted in the Free Press March 26. I'll read that. "Dr. Mark Taylor, Spokesman for the Manitoba Medical Association said the change closed the loophole that would have let bar owners sell tickets at the door and argue that they were holding a private function where smoking is permitted". Is that correct?

Dr. Taylor: I don't remember saying those exact words. I think that just reflects the concern that I mentioned that

bar owners could find a way to turn an everyday night at the bar into a private social function which would meet the definition in the law. That's why it's a very difficult thing to define in a law to prevent bars from having those types of events.

Councillor Lazarenko: Dr. Taylor have you made any effort at all before comments like this were being made at the Standing Committees that councillors have taken that this is a fact.
(10:43)

Have you consulted with the Liquor Control Commission as to the laws pertaining to bars and hotels and private functions on occasional permits?

Dr. Taylor: No.

Councillor Lazarenko: So Dr. Taylor, this comment that you made in the paper alluding to the bars that they will be looking for a special license to say that they'll hold private functions, that would be correct or incorrect?

Dr. Taylor: Well I think I'd have to listen to the tape. I don't remember.

Mr. Speaker: Thank you. Next delegation Aaron Yanofsky representing Manitoba Youth for Clean Air.

Mr. Aron Yanofsky: Thank you. Good morning Mayor Murray and City Council. My name is Aaron Yanofsky and I'm 13 years old. I'm a Grade 8 student at H.C. Avery Middle School and have allergies to second hand smoke. Today I'm here on behalf of MYCA, Manitoba Youth for Clean Air, a group of over 2,000 young people ages 6 - 17 and their families who strongly believe that there should be 100% smoke free environment in all indoor and outdoor enclosed public places in Winnipeg and all of Manitoba.

Today MYCA supports a full out smoking ban in all indoor and enclosed public places in Winnipeg.

The present smoking by-law to protect children over the past year has overall provided a healthier smoke free environment in many indoor public places in our City. I can now enjoy going out to many restaurants for a meal and enjoy my food without having to breath in second hand smoke and cough. The drifting smoke from lounges into restaurants and kids are being banned from restaurants. Not healthy and not fair. A few restaurants businesses such as Red Lobster and Applebee's have gone much further and banned smoking in their lounges and bars to make their places totally smoke free for the health and safety of their adult and young customers and all their workers. Wouldn't it be wonderful if all restaurants and bars would go smoke free like them. Well you can make it happen today.

We also believe that people should not have to walk through clouds of smoke to exit and enter public places. We hope smokers will be respectful to others when smoking outside of public places. MYCA appreciates the courtesy of smokers not smoking right in front of entrance ways and doorways of public places.

We hope you all vote for making all indoor and enclosed public places smoke free in Winnipeg. We also would like to especially thank Councillor Lubosch, Councillor Smith, Councillor Steek, Mayor Murray, Councillor Gerbasi and all the other councillors who are supporting a full out smoking ban in all indoor and enclosed public places at all times in Winnipeg.

It's the healthiest and safest choice, isn't it? We believe that if this law goes through you'll be setting a great and healthy example to many other places in Manitoba such as Headingley, Beausejour, Gimli, Clear Lake and Portage la Prairie to go smoke free. You're sending a very important and powerful message to the Manitoba Government and Canadian Government. The City of Winnipeg is willing and able to take the leadership and responsibility in this very important public health issue. We expect Premier Doer and the Province of Manitoba to do likewise. After all it's only the health and safety of Manitobans we are talking about. Is it not fair to have an even and safe playing field for all Manitobans and all Canadians?

The City of Winnipeg is about to hit a healthy grand slam, batter up. What a wonderful opportunity for Winnipeggers to celebrate world no tobacco day on May 31. 100% full out smoking by-law beginning July 31, 2003 is a great reason for everyone to celebrate. We hope to see you all at the celebration. Thank you for your time.

Mr. Speaker: Next delegation, Evelyn Yanofsky on behalf of the Concerned Adolescents respecting their environment.

Ms Evelyn Yanofsky: Hello Mr. Speaker, Your Worship Mayor Murray and the City Councillors.

My name is Evelyn Yanofsky, I'm 12 years old, and I'm in Grade 7 and also a member of MYCA.

Most of you should know me from the previous times I've appeared at City Council regarding smoking in public places.

I am here today on behalf of CARE, at H.C. Avery Middle School. We are CARE support a total smoking ban in all public places in Manitoba including all school and daycare grounds, and enclosed ramps of Canad Inn Stadium, the biggest enclosed public place in Winnipeg.

Today we hope the City of Winnipeg takes a big step in making all indoor enclosed public places in Winnipeg smoke free. CARE Club believes that what City Council is doing today is very important for making our city a healthier and safer place to live in. We all know that the Provincial Government should be taking the lead and the main role in this serious health and safety issue and doing more to protect the citizens of Winnipeg and all of Manitoba from the harmful effects of second hand smoke.

For you gentlemen and ladies in the City Council are the key leaders here today who finally can do something about the harmful and dangerous effects of second hand smoke on all visitors and Winnipeggers in enclosed indoor public places in our city.

We thank all very much and trust that you will vote for a 100% total smoking ban in all enclosed and indoor public places in Winnipeg. As Heather Crowe of Ottawa said on February 23, together we can help to save lives and protect the health of citizens of Winnipeg.

Thank you Mayor Murray and City Councillors for taking the leadership in helping to save lives, and protect the health of Winnipeggers from second hand smoke. No more banning kids, no more talking, no more meetings, no more waiting. The time for protecting and saving lives is today. Thank you.

Mr. Speaker: Thank you. Next Lise Martine. I imagine that's a no show then.

The following delegations are in opposition to the clause if they could please come down behind the podium.

Patrick Munroe. Jim Baker, Leo Ledohowski, Joe Bencharski, Gordon Anderson, Jeff Glover, Bruce Gouriluk.

Mr. Munroe would be first.

(10:50)

(Councillor Lazarenko in the Chair)

Mr. Deputy Speaker: Mr. Munroe, Grapes Leon Centre, in opposition. Mr. Munroe is not here.

Mr. Jim Baker, Manitoba Hotel Association, in opposition.

Mr. Jim Baker: Thank you Mr. Speaker, Your Worship Mayor Murray and Councillors.

I'll make this short, you've heard most of it before.

Our association's position is quite clear, we believe that the proposed by-law will result in a significant negative financial impact on our bar operations. Further believe that the impact on bar operations on the Provincial casinos is so significant that the provincial budget will require major changes to remain balanced.

We therefore believe that the City of Winnipeg operating budget will have to be changed in a major way if it is to remain balanced as well.

Please make no mistake about what we do. We are in the gaming business, it is one of our core revenue sources. That's something that of course Manitoba Lotteries understands.

Two years ago I provided Council with the position of the Manitoba Lotteries which stated that they would expect a 50% loss in tourism business representing $14 million in economic benefit and an 18% decline in revenue which is a net profit reduction of $25 million per year. That number doesn't include the VLT income most of which comes from the bar operations in Manitoba and Winnipeg.

Their report stated that there would be a direct impact on the City of Winnipeg's 35% share of VLT revenue and on its economic grants. These estimates have been substantiated by the results of the VLT operations in Brandon that showed an 18.2% drop.

I do know however that's there more to this issue than the economic side. However I must repeat that proceeding with this by-law without doing any direct research on its economic impact is negligent.

The Mayor at last week's EPC meeting relayed his personal experience in Ottawa in a report by KPMG on the Ottawa situation to base an opinion that there would be little if any impact on bar operations. I have read the report and have these observations.

I quote from the report, "that it's not possible to extrapolate the results in such a small sample to bars generally." On page 9 KPMG stated that they focussed on the available literature published on the topic to-date. "There were no studies focussed on a Canadian environment and few that focussed on the bar and pub segment of the hospitality industry". "It is therefore impossible to provide an estimate of the financial health bar and pub industry as a whole based on the survey results". We have to remember that they don't have VLTs in the bars in pubs in Ottawa. They don't have VLTs in any other jurisdictions covered by the literature.

At this point in time I merely mention this as my personal protest in a procedural manner in which this issue has been dealt with, that is the study of an economic impact.

At EPC last week I suggested allowing a by-law to be enacted coincidently with the provincial program would permit our association to achieve a smooth and positive adjustment to whatever the changes would be. I outlined the plan of awareness and assistance that would produce a higher degree of cessation and a reduced financial impact. A program that could be valuable for other jurisdictions across Manitoba and throughout Canada. A program of leadership and unique partnerships. A program that Health Canada and the Winnipeg Regional Health Authority are anxious to participate in.

Our Association is pushing forward to see that such a program is created. However the success is seriously hampered by the proposed timeline.

In summary, I ask each of you to decide if you have confidence in the Administration's efforts in determining the potential financial impact on the City and your confidence on the KPMG report on Ottawa.

Secondly I ask you if it is reasonable to deny our industry an opportunity to step out of the box and thereby be part of a unique and effective approach to dealing with tobacco use. Thank you.

Mr. Deputy Speaker: Thank you. Next delegation, Leo Ledohowski.

Mr. Leo Ledohowski: Thank you. Basically what I'm handing out here is a program that our company along with our industry developed for the alcohol serving program. We accept the fact and we've decided a while back that the no smoking ban shall come in.

Our position however is that we think it should be done in some manner that's appropriate and phased in and so we would ask for a few more months beyond the July 1 deadline to allow us to develop a program.

This is a program that's been developed by our industry. It originally started in 1990 between some provinces and the Federal Health and Welfare Canada. Manitoba started delivering in 1994. Then in 1999 MTEC provided the education program. We were instrumental in having the Liquor Commission Act changed so that everybody who served alcohol would have to take this program. There was a phase in period that describes.

Basically the program is described on the first page. The pages that follow are employees about a month ago had taken the program, about 600 employees. We've also developed a program similar to this from the Addictions Foundation to deal with the gaming situation, and we think now if we're going to have a total ban, we need to develop a third leg and that is kind of a nicotine program or whatever you call it, and that is so that we can work with our employees about 80% of our people that work in the bars are smokers. Creates a big problem if we have a total ban indoors. We would like some time. Our firm would certainly put in incentives to try and get our people to quit. Perhaps we could get of the 80% maybe we could get it down to 30% or 40%. We think as has been done with the alcohol program and the gaming program, I handed out to the alcohol program, that we should develop a third program. Jim Baker the leadership of Jim Baker has already been talking to the Federal Government, the Health and Welfare Canada, prepared to put some money in and time into this. The Provincial Government Health Department is quite prepared.

So what we're saying is that, just give us some time, July is not enough time. The appropriate time would be another six or nine months beyond that. If you look at the timelines it took us to develop these things. The timelines achieved largely from the employee point of view and the operational point of view allows us some time to adjust, we've decided some time ago that we would see sort of fighting the smoking ban and accept it as changing with the times. However what we are requesting for many reasons is to have an appropriate phase-in period. Not the least of which would allow us to perhaps harmonize with what the Province is going to do.

If I could wave a magic wand I would say here, make it May 1, 2004 or the earlier of May 2004, or when the Provincial ban comes in. If a provincial ban comes in sooner, fine, if the Province doesn't move, then you've achieved your goal, and it also gives us some time to develop a program with the health departments.

I think there's some major advantages to it as well. This would be a cooperative innovative program, the first of its kind in the country by and large, and I think we would achieve some of the goals we want to achieve here without the sort of punitive aspect of the big stick hanging over somebody's head, thou shalt, thou shalt do it by this time.

We've accepted it, now we think we need a little bit of time to phase it in, and I would recommend a May 1, 2004, the early of May 1, 2004 or when the Province acts. If the Province doesn't act, you've got a drop dead date, and in the meantime it gives us some time to develop this to help our employees and perhaps do some education in the public. And for some of us to convert our bars to alternate uses. Thank you.

Mr. Deputy Speaker: Councillor Wyatt.

Councillor Wyatt: Thank you for your presentation Mr. Ledohowski.

Because of the existing by-law that was passed last year, has the industry and business had to go to some extent to deal with ventilation and other issues when it comes to increased demand and use of your facilities?

(11:00)

Mr. Ledohowski: Yes, absolutely. When the by-law went into force last year, we had 3,700 restaurant seats that became non-smoking. We accepted that. Did not do any barring on a age restricted basis. We would be reviewed in a year but we never ever ever anticipated it would be a prohibition by-law. That never was discussed. We discussed last year about making a drop date of 2005 or 2003, that was discarded and it was deemed that age restricted licensed premises would be appropriate for adults to do as they wished. Based upon that we spent hundreds of thousands of dollars taking our licensed premises and many of our licensed premises and filtering the air with the idea that we would…we know a lot of people didn't like the smoke, we wanted to get rid of the smoke and not the smokers, now I'm faced with this horrendous right-off of hundreds of thousands of dollars worth of equipment that we acted in accordance with the by-law. I assumed we would have some stability in the by-law.

I knew there would be a review, it never was suggested that the review would mean a termination. It would mean that if there was some kinks in the by-law they would be corrected. Never was suggested.

Mr. Deputy Speaker: Supplementary question Councillor Wyatt.

Councillor Wyatt: Thank you. These costs that you've had to undertake and other businesses had to undertake, by what you're requesting is to give more time. Would it allow you to amortize the impact that you've had to absorb with those costs?

Mr. Ledohowski: Obviously if we could get another few months on it, mind you I'm not asking for a lot of time, you've already decided July. Of course it allows a little bit more time to amortize the costs, and I'm talking very very significant costs.

I thought I was going to be a leader and get out front and put filtration equipment in and my reward is a massive multi-hundred thousand dollar right-off. Yes I would appreciate that from that point of view as well.

Mr. Deputy Speaker: Councillor Smith.

Councillor Smith: Mr. Ledohowski, I'm wondering, would you be willing to go ahead and lobby the Provincial Government with us for a complete province-wide smoking ban?

Mr. Ledohowski: We would certainly be willing to lobby the Provincial Government to make some pattern, if it's a province-wide smoking ban so that there's a similar law that applies throughout the Province. Whether it's exactly this by-law or some variation of it, yes.

Mr. Deputy Speaker: Councillor De Smedt.

Councillor De Smedt: Thank you Mr. Speaker. Thanks for appearing here today Mr. Ledohowski.

Could you comment on the proposal that you heard this morning about a motion coming forward to further amend the by-law that's being proposed, to eliminate private functions. As an entrepreneur and as a private sector person could you comment on that particular point as well as the private club notion.

Mr. Ledohowski: The private club notion to a certain extent they compete directly with the bars. If you look at the Legions etc., we're basically in the same business.

The private functions in my estimation, I'm a firm believer in firm choice. If I have a wedding in my family and I don't smoke my family doesn't smoke, well except for one child, can't love them any less than the ones that don't smoke, they're still members.

It seems to me that people should have some freedom. If it's a private function, a private wedding, I think people should have the right to do what they wish.

Councillor De Smedt: As I interpret your answer if I may just for clarification, then as a major investor in the City and hotels and facilities that you would prefer to see

I understand that your banquet facilities that are leased out for private functions should be permitted the option of having smoking?

Mr. Ledohowski: Yes.

Mr. Deputy Speaker: No further questions Councillors? Thank you.

Next is Joe Bencharski in opposition. He's not here.

Gordon Anderson, Oppressed Minority Alliance in opposition. Not here.
Jeff Glover, Old Spaghetti Factory, unknown. You're in opposition?

Mr. Jeff Glover: I am. I certainly won't need five minutes. I'd like to thank everybody for giving us the opportunity to speak today.

Out of respect for your time I'll be extremely brief. I realize most of you have your minds made up.

The issue of second hand smoke and its dangers to public health is indisputable and we certainly acknowledge that. We do however believe that the place for government to intervene in that sort of a situation is for essential services only. Restaurants and bars certainly aren't essential services.

People can choose to go to a restaurant or bar and the moment it would become a competitive advantage for us to operate our restaurants and bars as non-smoking we would certainly do that.

Over the past 10 or 12 years we've certainly gone in that direction already. I have no doubt that in the next couple of years we would certainly consider it a competitive advantage ourselves to be completely non-smoking without your intervention.

There was also a recent survey that was conducted by the Canadian Restaurant Association which has been distributed for all of you. I'd ask that you please consider it. Some of the highlights are on the press release that was included with it. Those highlights include that for the most part the citizens of Winnipeg don't consider the smoking by-law a significant issue, and that when it pertains to smoking that it is pretty much a provincial issue and ought not be dealt with in this level of government.

Thanks very much for your time. I certainly appreciate it. I'd like to open myself up for any questions if you have.

(Councillor O'Shaughnessy in the Chair)

Mr. Speaker: Question Councillor Steeves.

Councillor Steeves: Thanks Jeff for your comments.

I would appreciate you getting your comments on the record with respect to the private clubs issue. I'd appreciate your comments.

One of the issues we're dealing with today is the possible loophole. The possible exemption of private clubs. That issue, how do you feel about that?

Mr. Glover: We don't in our company of hospitality operate any private clubs. I do think that at the Provincial level I mean the thought that I've given to this issue for the most part is that it ought not even be here. How you should handle the private club issue I think people in the City ought to operate by the same set of rules. I'd certainly rather those rules not include smoking. I suppose that answers your question.

Mr. Speaker: Thank you.

Final listed delegation, Bruce Gouriluk, Big Guys Ranch and Saloon.

Mr. Bruce Gouriluk: Good afternoon. I wasn't planning on speaking today but just over the course of the last few days the survey that you guys have in front of you sort of pointed out some things and I just want to basically sort of hit a couple of main points.

Three out of four Winnipeg residents say, that the issue of smoking in bars and

restaurants should be dealt with at a provincial level and not at City Council. Only 4% of representative polled, of 400 of the Winnipeg residents, 83% were non-smokers, and they identified smoking in bars and restaurants as a top concern of Council is only 4%.

(11:10)

Most Winnipeg residents, 63% say that it would be unfair to ban smoking in local bars and restaurants while neighbouring communities have no such restrictions. Again, at the same time it would also cover the Casinos who I don't know who have been sort of wavering if they're going to join in on this by-law. It would be very unfortunate if they didn't, and they would be able to operate above the law that you guys would set today. Hopefully if you do set it that they do come along on board, but I would like to have some guarantee that they would before we made this decision.

They also account for 60% of support legislation that would restrict smoking in bars and restaurants to properly ventilate its smoking rooms, limited employee exposure to second hand smoke, and restrict the smoking rooms to patrons of legal smoking age.

Again, basically I just want to draw your attention to the survey that was done March 17 and 18 of last week, and the results given to us on Monday this week.

I appreciate your time to see us at such short notice.

Mr. Speaker: Thank you.

Next order of business on our agenda is Executive Policy Committee Report of March 5, 2003.

Councillor Steek.

Councillor Steek: In view of the fact that the vast majority of the delegations here are relative to the smoking by-law, and after discussions with the Mayor and with the Chair of Protection, I'd like to request a suspension of the rules so that the Chair of Protection can lead the discussion relative to the report of March 3 on Clauses 1 and 2 on the smoking by-law.

Mr. Speaker: Councillor Steek has moved the rules be suspended in order to deal with the reports of Protection and Community Services dated March 3, first. All in favour? Contrary? Motion is defeated.

It was very clear, I have no question in my mind about what happened there.

We'll move to the Report of the Executive Policy Committee dated March 5, 2003. Mayor Murray.

**REPORT OF THE EXECUTIVE POLICY COMMITTEE
DATED MARCH 5, 2003**

Mayor Murray: Thank you very much Mr. Speaker. I would move the Report and adoption of consent agenda Item No. 1.

Mr. Speaker: All in favour? Contrary? Carried.

Report of March 12, 2003.

**REPORT OF THE EXECUTIVE POLICY COMMITTEE
DATED MARCH 12, 2003**

Mayor Murray: I would move the Report and move the adoption of consent agenda Item Nos. 1, 2 and 3.

Mr. Speaker: All in favour? Contrary? Carried.

Report of March 18, 2003.

**REPORT OF THE EXECUTIVE POLICY COMMITTEE
DATED MARCH 18, 2003**

Mayor Murray: I'll move the Report and the adoption of the consent agenda Item Nos. 1 - 22.

Mr. Speaker: Councillor De Smedt, 22. Consent agenda Items 1 - 21. All in favour? Contrary? Carried.

**Item No. 22 - Acquisition of Environmentally Sensitive Land Under Proposed Plan of Subdivision DASZ 19/2000 (Bois des Esprits) Riel Community
File DASZ 19/2000**

Mayor Murray: Mr. Speaker I'll have to wait and find out what the concerns are. I'm not sure why it's being stood down.

Mr. Speaker: Councillor De Smedt.

Councillor De Smedt: Thank you very much Mr. Speaker.

I would like a clarification if I could from the Mayor and perhaps somebody from EPC. If we're improving our position here in terms of trying to reduce the cost to the City for acquiring these lands. I did not support this last year. I thought it really should have been more of a provincial responsibility and take a larger burden of the cost to acquire these lands since they are really a 38% shareholder of that development over there.

I would like to have some comfort that maybe we're reducing our costs or is this an additional expropriation that I think is indicated in here that we have to kick in another $270,000? If that's the case I certainly am not supportive of putting more money into this project.

Mr. Speaker: Thank you Councillor. Councillor Vandal and in speaking to it as Chair of Property because I'm not allowed to speak from the Chair, could you answer the question of why this matter did not come through Property Committee but solely through EPC?

Councillor Vandal: Let me try and answer Councillor De Smedt's first query.

This is an actual implementation of a decision that was made on June 19 on the floor of this Council where this Council said we shall purchase these lands at such and such a price. There is nothing in the report that we have before us this morning that is different from that. This is how we are financing that. This is the actual implementation of that decision.

Relative to your question Councillor O'Shaughnessy. The report at the time in June came to the Executive Committee and then it came onto the floor of this Council. There was some intergovernmental negotiation with the Province of Manitoba and I believe at the time Councillor De Smedt was the only Councillor who did not support this.

His concerns are not without merit. I for one think the Province have certainly not anted up to what the City of Winnipeg has, and that's an understatement, significant understatement. But nevertheless this deal was adopted in June by this Council, and I believe once it's fully completed it's going to be a first class park development in the South St. Boniface area bordering St. Vital. Right now we are just implementing what was agreed to by this Council.

Mr. Speaker: Councillor Steeves.

Councillor Steeves: To briefly add and refresh my colleagues. In terms of this issue you may recall this was the debate that commonly became known as the Save Our Seine issue. Pursuant to a not pursuant to but I guess in advance of a community committee meeting that we had in St. Boniface with Councillor Angus, myself and Councillor Vandal and about 500 of our closest friends, we came to the conclusion that overall the land purchase was a great community initiative design in part of offset the loss of some prime riverbank land that was due to the fact that we accepted the idea as suggested by Administration that a bridge be built at the south extension at St. Vital across the Seine River. Something the community was not frankly thrilled about in St. Vital but was grateful for this project undertaken by the City of Winnipeg. It was a classic case of community compromise done in good faith by the entirety of the community I think.

Now that we've begun construction there's a recognition that things have worked out for the best. I ask for Council to continue its support of this project I think it's a great thing for our area.

Mr. Speaker: Mayor Murray did you wish in summation.

Mayor Murray: I appreciate the comments, I'll just say one thing about it.

Park acquisition is primarily a city responsibility. We don't have enough money to do it the way we'd like. There's another $1.7 million in the capital budget this year in addition to the building communities program to improve and acquire parks and that's a positive thing.

I think that the investment in public space is sensitive lands here is very significant. If we started doing this 50 years ago in every community, Bunn's Creek and Omand's Creek and the Seine River would be real jewels in the City now. I know that many of you have worked really hard across the City to establish those water sheds and those waterways as real assets in neighbourhoods and open them up for all Winnipeggers.

(11:18)

We always want more money from the Province for these things. I think the larger issue of land development and lands being turned over and the partnerships that we're creating with the Province of Manitoba right now and everything from Meadowoods and they're of particular concern to Councillor O'Shaughnessy and the Waverley West properties create some opportunities for developing these kinds of amenities. They're a very important part and we should protect them. I think the dollars spent these are dollars well spent.

I know Councillor Vandal is working quite aggressively to try and leverage more matching dollars for this and a number of things in St. Boniface from the Provincial Government, and I think we wish him well.

Mr. Speaker: Question on the clause. All in favour? Contrary? Carried.

Mayor Murray moves that the rules be suspended to introduce the Report of March 25, 2003. All in favour? Contrary? Carried.

REPORT OF THE EXECUTIVE POLICY COMMITTEE DATED MARCH 25, 2003

Item No. 1 - 2003 School Division Levies and Mill Rates File FL-3 (Vol. 11)

Mayor Murray: Thank you Mr. Speaker. If we needed any evidence of how well we've done as a Council at keeping our mill rate down to the point where it's 53% and more in every part of the City now goes to education taxes.
Winnipeg has moved in the last five years from being in the top quarter of high property tax levies for municipal government to the lower quarter in Canada. The cities that are lower are cities like Calgary and Edmonton that have things like gasoline taxes and revenues we don't have.

Again, I don't think anyone can ever fully appreciate what's happened in the last five years and what the City Council has done. We still have the overall highest property taxes in all save one major class of residential property because we have a school system and education system that's more dependent on property taxes than any other put school trustees in a difficult situation of having to make cuts or raise property taxes. A situation most of us in local government should be apathetic with. I don't think it's our job to beat up on them.

I also just want to stand out alone and congratulate the St. James - Assiniboia School Division who continue to be the only school division that lives on less than 50% of the property tax bill in this city. Their increase even though a percentage higher is still in net dollars lower than most other school divisions or many other school divisions anyway, and they've actually done some things like close schools and made some tough decisions that we're used to in dealing with assets.

We need a new funding formula for education and that's what we talked about as part of the new deal with cities. We are too property tax dependent as a city. Only Vancouver comes close to Winnipeg for its incredible over reliance on property

taxes. It's just simply we're a city and a community that relies on property taxes to pay for far too many things and in other communities across Canada are paid for by other tax sources and revenues. That has to end.

We also want to acknowledge that the Provincial Government has introduced a property tax credit and has done some work to start to bring down the property tax burden in the last couple of years, it's been absent in years past and that's a positive step forward. I think all parties now are on record about phasing out the education support levy and I think we have to continue to work with them so we don't continue to be the only city in Canada with three property taxes. If we could at least get down to two that would be a step forward.

We have no choice on this. I know some of you object to some of the rates of increase. I'm certainly apathetic to those feelings. But as our dear friends at Legal Services say, this is the only vote ironically that Council must cast a positive vote for. Thank you.

Mr. Speaker: Thank you. Councillor Wyatt followed by Councillor Steek.

Councillor Wyatt: Thank you Mr. Speaker. I would like to thank the Mayor for his comments on this item, and I share a lot of his views and concerns.

I rise today because I feel very strongly Mr. Speaker that what's before us today is completely unacceptable from a point of view of the big picture and the economic well-being of our city. We speak time and time again of the importance of ensuring that our city is competitive, that we are competitive in relation to other cities in Canada and North America and we are constantly looking at the issue of how competitive we are when it comes in relation of our realty taxes and our property taxes.

The City of Winnipeg has done a tremendous job. My colleagues here I commend them, and the previous council as well I commend them for the work they've done to keep taxes under control, and actually make actual reductions in our taxes. Today what we have before us Mr. Speaker in one swell swoop we're going to basically wipe out the savings that we have granted to the taxpayers of this city and increase them. An 8% increase across the board is what the average is for the school division tax before us.

It's not a coincidence Mr. Speaker that a lot of the major increases are occurring I believe they're occurring in the divisions where they were pushed and forced into amalgamation. The Transcona-Springfield School Division is one of those divisions we're seeing an increase Mr. Speaker, the highest in the entire city, probably the highest in the Province I might go further to say of 14%. $132.80 on a $100,000 assessed home is what the increase will be. Even a $76,000 home you're looking at a $100 of increased taxes. This is going to be extremely hard Mr. Speaker on residents in our community, in my community. Especially when it comes to people on fixed incomes who are property owners, senior citizens for example, and young families who have purchased homes, many who've moved into a lot of the older homes in our community to fix them up and refurbish them and rejuvenate neighbourhoods. This is just a slap in the face of all those people who are trying to contribute to our city.

I realize that technically under the law we're required to pass this and forward this onto the Province. That this is our legal obligation as was said yesterday at EPC, that if we defeated this we would be in violation of that and that we as individual councillors could be sued, not the City, but individual councillors, sued. The question is, who would sue us, the taxpayers who we're saving this money from, no, the Provincial Government. Mr. Speaker if the Province wanted tomorrow to sue me for stopping this coming forward I would welcome the fight. I would cherish the fight. Let's take them on. Bring on the best lawyers Mr. Speaker, this would be a battle that I would love to take on.

Mr. Speaker, this is completely unacceptable. I strongly urge Council to take a principle stand here, and to bring this issue to a head. I realize that we have hammered on this issue year in, year out. The Province claims that there are serious about it, they have a working group involving the municipalities of the Province. Involving MTS. Involving the municipal administrators, they have done work towards this. Though in my mind the Government is not moving fast enough. They were supposed to issue an interim report on this last October, the interim report is still not been issued. I don't think the Province is taking this as a serious issue.

Finally this is a unique situation today Mr. Speaker because of the amalgamation of the school divisions. This has never come before us before and I believe we must take a stand just on that alone.

That the Province told the public over and over and over again that the reason why they're amalgamating the school divisions is to save money, to make school divisions more efficient. Bigger is better. Less is more. We've got to be more efficient. We've heard all those arguments before when it comes to many other issues as well. It was made on the case of the school divisions now.

(11:25)

When the school divisions come forward and say this is what we are doing to preserve our education and nobody wants to see education cuts, the Province washes their hands and says, oh we can't do anything about this.

Throw the budgets back, force them to redo the budget but we don't know how it should be redone. What changes should you make? We have no idea. We want you to redo them. School divisions come back, this is what we have to do, this is what we have to do to maintain our level of education unless we start cutting teachers and shutting down classrooms, and shutting down schools they're in a very hard fix.

Clearly we cannot continue on this path, we are making our city more and more uncompetitive by allowing this issue to go on and on and on. It's hurting us dramatically.

Just to give you a quick idea Mr. Speaker. This was provided to me by our own staff, that in the last 13 years from 1990 to 2003, property taxes in my division have gone up 151%. From $401 in 1990 to $1,006 in 2003. 151%, an increase of $604.

In that same period of time Mr. Speaker, from 1990 to 2003, municipal taxes have gone up 18%, not even the rate of inflation Mr. Speaker. From $1,049 to $1,242 a difference of $193.

Clearly there is something drastically wrong with our existing administration of our education system, and it is the Provincial Government's jurisdiction at the end of the day the beginning of the day and the middle of the day. They have to rise and say the buck stops here, we're going to address this problem, we're not going to allow for this to occur to the people this year in this province.

This is outrageous Mr. Speaker. $132 on a $100,000 modest house, and across the board it's St. Boniface, 7.7% increase. 14% makes all the other increases look small Mr. Speaker. 7.7% increase, could you imagine if we were talking about 7.7% on our property taxes, all hell would break loose. Here we have 7.7%, 6.2%, 5.4% another 7.7%. It goes on and on Mr. Speaker.

I strongly encourage all councillors here today to take a personal stand to stand together. Let the Province sue us altogether. Let's stand here and be together, we'll be in the docket together in court, what the heck, we will stand here and we will defend ourselves and defend the people that we represent because when the bills come in the mail Mr. Speaker you know where the phone calls will be going to. And everybody knows that as well. People will be mad. At the end of the day they don't care which level of government taxes, all they know at the end of the day they're looking at the

bottom of their bill and their bill in Transcona on a $100,000 house will be going up $132.80. That's a huge jump.

Mr. Speaker, I appreciate your time and I appreciate the members of council's ears on this matter.

Mr. Speaker: We have Councillors Steek, Steeves, Eadie and Lazarenko.

I would just remind Council that if I may have this little bit of leeway, whether you pass it or not the total funds must be remitted to the school divisions on a time set by the Province and your staff no matter what you do will forward those funds if they have to borrow them. The grandstanding is fine but the school divisions will get their money.

Councillor Steek: Mr. Speaker with all due respect, it isn't grandstanding. The fact remains is that when we first came, a number of us first came to Council in 1995, the constant refrain from the Province was get your fiscal house in order. There is eloquent testimony to the fact that that has been realized.

The fact remains is that in school division No. 1 which effects seven of you around this table and that includes River Heights, the increase on the municipal taxes as Councillor Wyatt has indicated has been 18% from 1990. The rate of inflation since 1990 has been 28%, we're 10% below inflation.

The increment in school division No. 1 during that period of time has been 82%. Why is this an important issue? Because of the fact that we hear constantly the desire to keep the best and the brightest in this city.

The fact remains Mr. Speaker, as that there has to be a new methodology introduced by the Province to fund education. There's no other issue here facing us other than that.

The situation that we now face is that city-wide the fact that our municipal portion will be flat without increase will be esponged because of school division increases. It's simply not acceptable any longer.

I brought forward a motion at the last Council meeting urging Council to go to the Province requesting separate tax bills. The reason for it is very straightforward.

It is to underscore the disparity that continues to escalate, number one. Number two, to make it abundantly clear who is responsible for what portion of that tax bill. The net result and I'll be pleased to put it in all your mail boxes over the lunch hour, is that I received a letter from the CAO of Dauphin strongly supporting it and indicating that a significant number of small municipalities do.

Three years ago when Councillor Lubosch started the momentum on the smoking by-law, I don't believe anybody thought that you would see a total ban in public places. We'll pass it today.

Part and parcel of bringing public focus to this issue is that we use the opportunities we have to draw the Province's attention to the issue that is overwhelming the citizens in Winnipeg. We simply have to have a different methodology Mr. Speaker for funding education. We can do things in this Council to bring provincial attention to that as a matter.

Now I'm well aware that this a mandatory pass. But there's a lot of merit to what Councillor Wyatt has to say. You can send a very clear and definite message to the Province through a number of avenues that the funding for education must be looked at and it must be looked at immediately. Councillor Wyatt is absolutely correct. It's great that they say let's amalgamate the school boards and there'll be savings. What savings? It's great that they go to the school boards and say, reduce, but they don't tell them how. We were told by the Province to get our fiscal house in order and we did it. It's something that everyone around the Council chamber can take some credit for.

The fact remains is that we owe this to the citizens of Winnipeg to make it abundantly clear that we're not satisfied with what's happening in the way education is funded.

We should be starting here today and we should be going to the Province Mr. Speaker requesting separate tax bills. Because the more people within this province that see what is happening, the greater the pressure there will be on this provincial government to address this issue. Those are my comments. Thank you.

Mr. Speaker: Thank you Councillor Steek. I do apologize to Council for not being clear, I did not say speaking against the issue would be grandstanding, I said, voting against, I meant to say voting against it would be grandstanding.

(11:34)

I'll point out to those in the gallery, it is very clear we will not get to the smoking by-law issue before lunch. We do reconvene at 1:30 p.m. It would likely be right about that time that we would start. So if any of you wish to see that debate and that vote, I can assure you we will not be getting to it before 1:30 p.m.

Councillor Steeves.

Councillor Steeves: Thank you Mr. Speaker. I rose my hand to speak when my colleague Councillor Wyatt was speaking and he did cover a lot of things that I wanted to make sure were put on the record. I think it's very very important to note that the majority I think of all the taxation increases that we've seen this year from school boards are due in the most part to the costs associated directly with amalgamation.

I dare say there's probably only one, two or three councillors in this chamber today who do not represent an area represented by a school board that was not forced into some sort of amalgamation. I'll just let you know that with respect to Louis Riel School Division it spans the area of Councillor Vandal and I, who are going to the people this year with a 7.7% increase, there is a little bit of Councillor Angus in there, I apologise. The three of us again represent that area a substantial portion. McDowell and Burland School are Councillor Angus'.

In any event, 7.7% increase for example in that school division Mr. Speaker, over 4% of that was dedicated to costs directly associated with amalgamation. It is important to note in defence of the school divisions of course this is the first time I rise on this clause without actually being a school trustee. The point still remains.

All the school divisions, the Manitoba Association of School Trustees, after amalgamation was announced without their agreement, they have all gone on the record and sent correspondence to the Provincial Government stating quite clearly that the amalgamation would come with substantial additional costs. I think we ought to be very very clear that this may be an exceptional year in terms of costs.

Having said that, I should say that I have taken the time to meet with my school board last week on this very very important issue. They have told me the anticipation is that these costs will bleed through into further years and there will be additional costs incurred.

Probably in fairness should be noted that the Provincial Government did send some funding especially to amalgamating divisions to offset some of those costs, that's very very important.

When we talk about the idea of separate tax bills and what that may or may not achieve is important Mr. Speaker I think to realize that we are always going to be talking about tax money. I think it's incumbent upon us prior to any of us making that choice to make darn sure we understand exactly what that choice is going to mean in our community.

I think I can speak on behalf of all of Council when I say that, the last thing any of us want to do is to put our local school boards in a position where they don't feel they can deliver a quality of service because after all, we represent the same people, and we don't want to put our school boards or the school divisions in an uncomfortable position that they feel they can operate within.

I hope at least we take that time in going through some of these different methodologies that have been suggested. Thank you Mr. Speaker.

Mr. Speaker: Councillor Eadie.

Councillor Eadie: Mr. Speaker, this isn't the first time I've spoken on this particular clause in nearly 23 years of service in this place, but I do want to start by simply reminding all of us what our primary purpose is here as members of Council.

We weren't elected here to spend some time getting the dogs to start barking or having someone pick up the garbage all the time, our primary role here is as law makers and policy makers. And at every Council meeting we do pass laws. There's a number of them on our agenda today that no doubt will pass today, and we expect our citizens to obey those laws. So as law makers it's really quite irresponsible to suggest that as law makers we should be encouraged to disobey a law established by another government. If we do that Mr. Speaker, then how do we encourage our citizens or what encouragement is there for our own citizens to respect the laws that we pass on a monthly basis in this chamber.

I don't accept that it's taking a principled stand to disobey a dully enacted act of the Legislature by trying to defeat this particular clause. It's not in my view principled, I do think there's some grandstanding there but I do think more importantly that it really is not a responsible position to take for anyone who has been elected as a law maker to encourage the people to disobey laws enacted by another order of government. We expect our own laws to be obeyed by our citizens, and as law makers we have an obligation and a responsibility to obey all laws that are passed by all law makers in all orders of government.

I don't intend to follow the advice of my friend Councillor Wyatt and vote against this particular clause and try to defeat it. We are required to pass this. We are not responsible for the levies that have been levied by the various school divisions within the City of Winnipeg, there are dully elected school trustees who have that responsibility. It is they who must answer to their public as to why they have decided to impose a number of various levels of tax increases on their residents, they are the ones who were elected the same day as we are and they have to answer for that.

On the issue of separate tax bills Mr. Speaker I think at this point in time that's going to be a non-starter. It wouldn't be the first time that Winnipeg City Council has talked about the idea of separate tax bills for school and municipal purposes. Resolutions were adopted a number of years ago by the former Manitoba Association of Urban Municipalities and the former Union of Manitoba Municipalities now combined into the Association of Manitoba Municipalities. Resolutions have been endorsed by municipal governments throughout Manitoba asking for that. Successive provincial governments have said no we are not going to do that. In view of the review that's taking place now with this provincial task force I suggest to you that that is not going to happen within at least the next year and probably not ever.

I just want to follow up further on that Mr. Speaker. With regard to education financing. A couple of years ago this Council passed a resolution asking the Association of Manitoba Municipalities to put together a task force on education financing. The AMM did that as Councillor Wyatt knows, he was involved with that organization for a time. The task force was struck and composed of municipal councillors and school trustees and school administrators who didn't include the teachers because we didn't think the teachers union had any responsibility for this. This is a political matter and a policy matter. That task force did meet for over a year and did recommend unanimously that the Provincial Government should be changing the system of financing education. They should be reducing the reliance on municipal property taxes or on property taxation to fund education. The Provincial Government should be taking back more of the costs of financing education. And they should be looking at

some of the components of financing education that must be imposed by school divisions. For example students with special needs. The costs of providing education to students with special health needs is imposed on the property tax base. It should be a cost that's borne by the Manitoba Department of Health. It shouldn't be an education financing item. Those are some of the things that the task force suggested that the Province should be taking steps to change.

The then Minister of Education received the report and generally agreed that he liked the way that the report suggested the Province have.

(11:40)

As some of you might now know the Minister has now structured another particular task force with the task of finding the ways and means of making it happen. Now that's not going to come forward, you're not going to get any report or any recommendations being adopted by the Provincial Government in this particular year. We're in a provincial election mode. No matter what that task force might recommend is not probably going to see the light of day or see any action by government until the Provincial election is out of the way. But at least that work is on its way. It's really the first time in probably many many years, certainly in longer years that I have been here where a provincial government has finally decided to take a good look at how education is financed and to take a serious look at how the burden of education financing has devolved over the last 30 years from a majority of provincial financing to pretty well almost even now between provincial financing through the general tax base and financing through property taxes.

Eventually there's going to be a report. It isn't going to be happening in the next few weeks Mr. Speaker. In the meantime we have a legal obligation as members of city council to pass on the school tax levies that have been approved by our duly elected school boards in this city, and I don't intend to stand in the way of that.

I had a phone call this morning from a resident of my constituency who's concerned about the possible tax increase being imposed by the school board in my area. She felt that this should be borne by the Province. My message to her is, I tend to agree. But if you have that concern find your MLA, if you can. This being the 26th of March and the Manitoba Legislature is still not sitting, find your MLA and convince her to make it a policy issue. Sound out your provincial candidates in the next few months and ask them where they stand on it. We've done everything that we can do legally, it's now up to the Provincial Government and the Manitoba Legislature to take action if there's going to be a wholesale change in the Province.

My message is, find your MLA and get a change and encourage them to support a change in provincial policy.

In the meantime Mr. Speaker, we have a legal obligation to pass this and I don't intend to stand in the way of that.

Mr. Speaker: Thank you Councillor Eadie. Councillor Lazarenko.

Councillor Lazarenko: Thank you Mr. Speaker.

In listening to some of the speeches here to this clause, I have to concur with the comments made especially those who represent areas such as Transcona-Springfield, the increase of 14%. Assinboine South, 6.2%, St. James-Assiniboia, 12.5%, both representatives have spoken.

Councillor Wyatt has indicated that he will be voting against this and I don't blame him. I used to do this years back and I didn't give a damn what the Province would think of me. I spoke my mind because they have given us legislation that we must collect the taxes. So unfair, so unfair that we run for public office the same time as the school board candidates to get elected to carry on their responsibilities. We have no say to the budget they propose.

Years back I had asked the question, why don't we get a copy of their detailed budget. I was told it was none of our business. I did receive a copy one time by a late school trustee and said, please do not ever mention my name because then I will be in a position that I will be attacked by the school division Chair and also with the other trustees.

Winnipeg Division No. 1 is 5.4% which is not bad. The school trustees have worked hard to put it to 5.4% but there's a cost to it. Reduction of teachers, services. When you're looking at trying to reduce, and it's not to say what the community is requesting. Transcona is no different from the education system than the North End. They still have a policy to follow, the trustees have to do their work. The Administration does theirs, they make their presentation, the trustees vote on that.

Unicity came into effect 1972, January 1. I ran for Council on October 28, 1971 when Unicity was formed. At that time we had 13 municipalities all went into one. We have now about 9 or 10 divisions, why can't they be amalgamated into one division and deal with this like we have dealt with all the City affairs right across the Unicity that was implemented back in 1972.

The Winnipeg Charter, I've questioned this so many times before the Winnipeg Act, now it's the Winnipeg Charter. Each and every time the people they get elected provincially always have a mandate that they work on and it's ours. We have to protect the Manitoba taxpayers. We have to make sure that the taxes are fair. They imposed this idiotic thing that was implemented many years ago with Unicity that we have to collect the taxes for all the school divisions. Our people have to do the collecting. We have to refund the money that we collect, we have to refund the money back. We don't keep that. Before we used to keep the money for a number of months, we were able to get some interest on that, at that time interest was high so we were making not too bad.

The funding process that takes place for all levels of services whether it is education, police, fire or cleaning the streets it is services that are provided to the citizens of Winnipeg including education.

When you have people sitting at the Legislature who have deaf ears to the concerns that we have been telling them year after year, election after election, premier after premier, ministers after ministers have failed to listen to us. We have not been speaking as one unit, as Unicity made it to be, as one unit. One Council. To tell them where is the fairness. We have tried to get separate tax bills, I moved a number of motions before, never succeeded, didn't get to first base. And even this Council would not concur with that recommendation because Council said well it's the Act. Same thing as what's happening now with the smoking by-law. Provincial Health has taken over our responsibility the health services, it's a provincial matter. This should be dealt with by them. Same thing with the school issue. We will, I'll have no alternative to vote for this because my area is 5.4% is not bad. But if I had 14% believe me I would vote against this.

I know there's a chance you may have an opportunity to vote against this, but if Council succeeds there is always that chance that the Provincial Government will act, we would be in violation of what is now the Winnipeg Charter, the Oath of Office that we have sworn to we have signed, we'd be in violation of that Oath of Office that we have taken.

(11:50)

There's always that responsibility, and a possibility that an individual person could be charged or could lose their seat.

The Province introduces what we have to do. They decide what they think is good for Winnipeg. We decide what is good to Winnipeg as what the Province tells us what we can decide, what is good for Winnipeg as per the Winnipeg Charter.

It's so unfair to have a body of politicians overseeing another body of politicians without showing any interest like the

Premier has indicated so many times. While we will abide by, we will listen to what the City wants, yes we'll do this, yes, but there's always such a thing I must deal with my cabinet and the party itself because there's a convention where resolutions are passed and accepted by the Party, they must abide by that. And most of them don't even know what they're talking about. When it comes into the issues such as ourselves, you have to be here, you have to be here for a number of years to know exactly what is happening and what should be happening, what is good for the citizens of Winnipeg.

The only time that we had a perfect communication with the Province and even the Federal Government came on the scene at that time was the flood of 1997. No questions asked. We had a Council lasted only five minutes, all of us were in agreement. Beyond that different views. We'll see later on when it comes with that motion that's coming before us, the clause, that's very important. Some of us have big concerns on the jurisdiction part. We'll see what's going to happen. We'll see the number of people be voting in one direction and thinking that they know what they're doing.

Same thing with this Mr. Speaker. Do we know the number of school buses that are operating back and forth chasing up and down the street to collect the children and take them to school. When I asked the question in our Winnipeg Division No. 1, I could not get that answer. Even though those buses were being fuelled at our pumping station on McPhillips at the Works Yard. When I asked that question they said it's got nothing to do with you because we get reimbursed. I said why should we at our expense because we do get a reduction on the amount of fuel we consume because it goes through the big process. So in other words what we do what we work on to try and get a better deal for the citizens of Winnipeg, the provincial education system which is the school divisions prosper by that. And zippo for us. These are the things that we don't even know. This has never been discussed by individual members of Council, Councillor Steeves has said, he's met with his school board because he was a school trustee in St. Vital. He knows. But some of us were never on the school board.

What we have to look at is to say look, is this fair. Councillor Wyatt at 14% the highest on the scale, 14% increase will be getting his share of phone calls. When people get the tax bill doesn't say, it just says on the bottom the one shot price that you have to pay the cost of both taxes, provincial, the school levy and the municipal taxes. It's there, and it will be there.

What has to happen is that we have to make we have our Intergovernmental Affairs Secretary, Councillor Eadie, I was hoping he'd go there and raise that, I'd like to hear it sometimes on the news that he's stomped his fist and he's demanded action.

The Province knows Mr. Speaker how far they can go and they been very very successful. We don't have people that would be staying together and saying, we demand let's march onto the Legislature, let us confront the Premier, election is coming up this year, this is a golden opportunity for us to do it. Whether some of the members here are NDP or not, but golden opportunity because we're here altogether on the same pot to go there and demand. And 31% or 31 MLAs represent the Legislature which is the majority in the House of the Legislature of Manitoba, 31 seats have the majority, that's the people we have to talk to.

Mr. Speaker: Thank you Councillor. Final listed speaker is Councillor Angus.

Councillor Angus: Thank you Mr. Speaker. I'll be fairly brief.

Council has within its power the opportunity to do what is desired by the majority of people, and that is send out tax bills that are more reflective of the cost of our services to our citizens. We already send out water bills on a quarterly basis as an example, there's no reason why we couldn't send out tax bills on a quarterly basis. The facts are that in June your tax bill would be three or four times what it is on a normal quarter and we

would simply be drawing to the attention of the taxpaying citizen that that is because of the school taxes in their area. It's simply a matter of Council having the will to decide to do it. We can stop beating up on the Provincial Government and what we really want to do is say to the citizens of Winnipeg, you're getting reasonable value at a reasonable price for the tax dollars you invest. Please don't drag us down with the school board taxes. It's right in front of us Mr. Speaker if we simply have the will to do it. Thank you.

Mr. Speaker: Thank you. Mayor Murray summing up.

Mayor Murray: It seemed to be Mr. Speaker less a debate about the clause but what to do about it.

I guess I disagree with Councillor Eadie's sentiments. There was a friend of mine that used to be here by the name of Councillor Fleisher who used to, polite language, said you can't suck and blow and at the same time. The same people are saying well the Province should respect our smoking by-law and follow the rule of law in casinos are now suggesting that we don't follow the rule, the Provincial law and pass what is legally required by the Province of Manitoba. Which is the mill rates for school divisions so they could be included on the property tax bill.

I have a little bit of difficulty with that. There's a lot of great reasons for civil disobedience. If we had a racist government or we had gross social unfairness then I would be one of the first people on an issue of morality or on the issue of genocide which occurs in some parts of the world, great brave stands of disobeying the law are in some situations matters of conscience. This is hardly a matter of conscience, this is an issue of technical and procedural administrative law. So I find that just bizarre quite frankly to hear some councillors suggest on such a small item that we…and the Premier has said, that he has and will always follow provincial by-laws and they do that by consent because they act on the person of the Crown and as you know the Crown whether it's Federal Government or Provincial Government or scram corporations don't have to follow the law. I think if there's going to be councillors who are going to stand up and vote against this and then this afternoon argue the Province should be explicitly following our law, they're going to have a little trouble I think on the credibility side of that issue in making that case.

I think Councillor Angus just very articulated put forward, there are many way we can within the legislation we have differentiate ourselves from school boards and I think that I would be quite happy and I think Councillor Angus' suggestion that we go to quarterly bills, we have a TIPS program, we could certainly set that up, and if that's of interest to Council there's a constructive thing we could do as grown ups all on our own without the Provincial Government's help.

(11:58)

I also want to point out that the Province after years of downloading have seen steady inflationary increases in our grants. The Province has increased the property homeowners tax credit and has committed now to work with us and the Association of Manitoba Municipalities to phase out the education support levy. That's unprecedented commitment in 30 years of City/Provincial relations. I think the Provincial Government and Premier Doer have been quite fair and reasonable with Manitoba Municipalities on that on working on those issues. We are on record supporting the AMM Task Force Report, I think we ought to continue that work with them.

Quite frankly, Councillor Steek and others who advocate that we pass motions that I think do nothing but poke the Province in the eye are going to go right back to picking up the megaphones and having the Mayor and the Premier and the City of Winnipeg and the Province of Manitoba yelling at each other on the front pages of the newspapers is exactly what we got out of in the last five years. We've developed what I think is a model relationship between the Province and the City. We've dealt with our issues across the table with them. I think that has been

true. When I first came to the Mayor's Chair with Premier Filmon we had a positive dialogue. We had agreements on how we were going to deal with Intergovernmental relations and we've continued to do that.

I think in sound in fiery representing nothing, I don't think we're going to get anywhere if we go back to those kinds of tactics, I certainly wouldn't support them or endorse them. Quite frankly, I think we're well on the way Mr. Speaker to getting these issues resolved. But as Councillors Eadie and Angus both suggested, patience here is a virtue, and I think we have made great progress. I think we're likely to get even further. Remember this is not Alberta, Alberta surplus is bigger than the annual budget most years than the entire government of Manitoba. We are not a wealthy province, we are not a wealthy city and a little bit of patience in our relationship gets us a lot further than motions on the fly that are meant to be confrontational and grandstanding quite frankly.

Mr. Speaker: Thank you. Question on the clause. Recorded vote has been asked for. All in favour of the clause please rise.

A RECORDED VOTE was taken the result being as follows:

Yeas

His Worship Mayor Murray, Councillors Angus, Clement, De Smedt, Gerbasi, Lubosch, Pagtakhan, Smith, Steeves, Thomas, Vandal, Lazarenko, Mr. Speaker Councillor O'Shaughnessy.

Nays

Councillor Wyatt.

Deputy City Clerk: The vote Mr. Speaker, Yeas 13, Nays 1.

Mr. Speaker: The clause is passed. It is now being 12 o'clock, we stand adjourned until 1:30 p.m.

Council recessed at 12:00 p.m.

After recess

Council reconvened at 1:36 p.m.

Mr. Speaker: We are on the Report of Executive Policy Committee dated March 25, 2003, the second clause. Councillor Thomas if you would do the honours on Clause 2.

Item No. 2 - Appointment of an Acting Chief Administrative Officer File GP-1.35 (Vol. 1)

Mr. Speaker: All in favour? Contrary? Carried.

Clause 3.

Item No. 3 - 2007 World Hockey Championship File GC-8 (Vol. 6)

Mr. Speaker: All in favour? Contrary? Carried.

EPC motions, none. By-laws.

EXECUTIVE POLICY COMMITTEE CONSIDERATION OF BY-LAWS

Mayor Murray: I'll move that by-laws numbered 46/2003, 49/2003, 50/2003, 57/2003, 58/2003, 60/2003, 65/2003, 66/2003 and 67/2003 be read a first time.

Mr. Speaker: All in favour? Contrary? Carried.

Clerk: By-laws numbered 46/2003, 49/2003, 50/2003, 57/2003, 58/2003, 60/2003, 65/2003, 66/2003 and 67/2003.

Mayor Murray: I'll move that by-laws numbered 46/2003, 49/2003, 50/2003, 57/2003, 58/2003, 60/2003 and 65/2003 to 67/2003, both inclusive, be read a second time.

Mr. Speaker: All in favour? Contrary? Carried.

Clerk: By-laws numbered 46/2003, 49/2003, 50/2003, 57/2003, 58/2003, 60/2003 and 65/2003 to 67/2003, both inclusive.

Mayor Murray: I'll move that the rule be suspended and by-laws numbered 46/2003, 49/2003, 50/2003, 57/2003, 58/2003, 60/2003 and 65/2003 to 67/2003, both inclusive, be read a third time and the same be passed and ordered to be signed and sealed.

Mr. Speaker: All in favour? Contrary? Carried.

Mayor Murray: I would move that the rule be suspended and By-law No. 69/2003 be read a first time.

Mr. Speaker: All in favour? Contrary? Carried.

Councillor Wyatt wishes to be recorded against suspension of the rules in first reading.

Clerk: By-law No. 69/2003.

Mayor Murray: I'll move that By-law No. 69/2003 be read a second time.

Mr. Speaker: All in favour? Contrary? Carried.

Councillor Wyatt recorded in opposition.

Clerk: By-law No. 69/2003.

Mayor Murray: I'll move that the rule be suspended and By-law No. 69/2003 be read a third time, and that the same be passed in order to be signed and sealed.

Mr. Speaker: All in favour? Contrary? Carried.

Councillor Wyatt recorded in opposition.

Question period, none.

Standing Policy Committee on Public Works, Report of March 11, 2003. Councillor Angus.

**REPORT OF THE STANDING POLICY COMMITTEE ON PUBLIC WORKS
DATED MARCH 11, 2003**

Councillor Angus: Mr. Speaker there are three items, Item No. 3 should be stood down because there's two amendments, but I'll move Item Nos. 1 and 2 as consent items.

Mr. Speaker: Items 1, 2 and 4. All in favour? Contrary? Carried.

**Item No. 3 - Temporary Signs in Public Rights of Way
File SC-3.1 (Vol. 4)**

Councillor Angus: Mr. Speaker on Item No. 3 there are two amendments, one by myself and the other one by Councillor Vandal. They're both acceptable. I would with a friendly amendment to Councillor Vandal's motion move that it be designated Boulevard Provencher an image route, and add Boulevard Provencher to Appendix A of the temporary streets.

Mr. Speaker: Is that amendment acceptable Councillor Vandal?

Amendment 1, adding streets to the list, moved by Councillor Angus, all in favour? Contrary? Carried.

Amendment 7, Councillor Vandal, all in favour? Contrary? Carried.

On the clause as amended, all in favour? Contrary? Carried.

By-laws.

**STANDING POLICY COMMITTEE ON PUBLIC WORKS
CONSIDERATION OF BY-LAWS**

Councillor Angus: I'll move that By-law No. 64/2003 be read a first time.

Mr. Speaker: All in favour? Contrary? Carried.

Clerk: By-law No. 64/2003.

Councillor Angus: I'll move that By-law No. 64/2003 as amended, be read a second time.

Mr. Speaker: All in favour? Contrary? Carried.

Clerk: By-law No. 64/2003, as amended.

Councillor Angus: I'll move that the rule be suspended and By-law No. 64/2003 be read a third time and the same be passed and ordered to be signed and sealed.

Mr. Speaker: All in favour? Contrary? Carried.

Questions, none.

Fiscal Issues. Questions, no questions.

Property and Development, Report of March 4, 2003.

REPORT ON THE STANDING POLICY COMMITTEE ON PROPERTY AND DEVELOPMENT DATED MARCH 4, 2003

Councillor Vandal: I'll move Items 1 through 20, dated March 4 as consent items.

Mr. Speaker: All in favour? Contrary? Carried.

We'll have to revert I'm sorry to March 4, Item 17, there is an amendment by yourself Councillor Vandal. It is a housekeeping.

Item No. 17 - Proposed Amendment to the Development Procedures By-law for Conditional Uses File EP-1 (Vol. 21)

Motion No. 2
Moved by Councillor Vandal
Seconded by Councillor

THAT Item 17 of the Report of the Standing Policy Committee on Property and Development dated March 4, 2003, be amended by making the proposed changes to the Development Procedures By-law effective May 1, 2003.

Mr. Speaker: Motion No. 2 to make the effective date May 1, 2003. All in favour? Contrary? Carried.

The clause as amended, all in favour? Contrary? Carried.

March 6, 2003.

REPORT OF THE STANDING POLICY COMMITTEE ON PROPERTY AND DEVELOPMENT DATED MARCH 6, 2003

Councillor Vandal: I will move Items 1 through 3 of March 6 as consent.

Mr. Speaker: All in favour? Contrary? Carried.

By-laws.

STANDING POLICY COMMITTEE ON PROPERTY AND DEVELOPMENT CONSIDERATION OF BY-LAWS

Councillor Vandal: I'll move the following by-laws be read a first time, by-laws numbered 36/2003, 47/2003, 48/2003, 51/2003, 52/2003, 53/2003, 54/2003, 55/2003, 56/2003, 62/2003, 63/2003, 68/2003.

Mr. Speaker: All in favour? Contrary? Carried.

Clerk: By-laws numbered 36/2003, 47/2003, 48/2003, 51/2003, 52/2003, 53/2003, 54/2003, 55/2003, 56/2003, 62/2003, 63/2003, 68/2003.

(1:45)

Councillor Vandal: I'll move that by-laws numbered 36/2003, 47/2003, 48/2003, 51/2003 to 56/2003, both inclusive, 62/2003, 63/2003 and 68/2003 be read a second time.

Mr. Speaker: All in favour? Contrary? Carried.

Clerk: By-laws numbered 36/2003, 47/2003, 48/2003, 51/2003 to 56/2003, both inclusive, 62/2003, 63/2003 and 68/2003, as amended.

Councillor Vandal: I'll move that the rule be suspended and by-laws 36/2003, 47/2003, 48/2003, 51/2003 to 56/2003, both inclusive, 62/2003, 63/2003 and 68/2003, be read a third time and the same be passed and ordered to be signed and sealed.

Mr. Speaker: All in favour? Contrary? Carried.

Addendum By-law.

Councillor Vandal: I'll move that the rule be suspended and that the following by-laws be read a first time, by-laws numbered 45/2003, 70/2003, 71/2003, 72/2003, 73/2003, 74/2003 and 75/2003.

Mr. Speaker: All in favour? Contrary? Carried.

Clerk: By-laws numbered 45/2003, 70/2003, 71/2003, 72/2003, 73/2003, 74/2003 and 75/2003.

Councillor Vandal: I'll move that by-laws numbered 45/2003 and 70/2003 to 75/2003, both inclusive, be read a second time.

Mr. Speaker: All in favour? Contrary? Carried.

Clerk: By-laws numbered 45/2003 and 70/2003 to 75/2003, both inclusive.

Councillor Vandal: I'll move that the rule be suspended and by-laws numbered 45/2003 and 70/2003 to 75/2003, both inclusive, be read a third time and same be passed and ordered to be signed and sealed.

Mr. Speaker: All in favour? Contrary? Carried.

Questions, none.

Standing Policy Committee on Protection and Community Services, dated March 3, 2003.

REPORT OF THE STANDING POLICY COMMITTEE ON PROTECTION AND COMMUNITY SERVICES DATED MARCH 3, 2003

Councillor Gerbasi: Thank you Mr. Speaker. I would actually first move the adoption of consent Item No. 2 of that report. Then I would introduce the clauses. Is that appropriate?

Mr. Speaker: If you move it as consent. All in favour? Contrary? Carried.

Councillor Gerbasi: Mr. Speaker, there's a clause 1 of that report.

Mr. Speaker: There is Item No. 1. Item No. 1, smoking regulation by-law.

Now before you start, what's Council's will, we have an EPC amendment plus four other amendments. Our Procedure By-law says we can only accept two amendments at a time. Someone move suspension of the rules so that we can take all five in reverse order at the same time.

Councillor Gerbasi if you would first introduce the clause and then we'll take the amendments, 6, 5, 4 and 3 in reverse order and have the movers introduce them.

Item No. 1 - One-year Review of the Smoking Regulation By-law No. 7870/2001
File EH-1.2 (Vol. 10)

Councillor Gerbasi: Thank you Mr. Speaker. I'm very pleased to introduce this clause today. It's been a long time getting here for many many people.

I'd like to first just thank a few people, I think it's important to acknowledge Councillor Lubosch who's been championing this issue for years and years around here and I think we need to acknowledge the work he's done on this issue. I'd also like to single out the members of the Standing Policy Committee. Both current members and the members who've been on it in the last few years in particular Councillor Smith and Councillor Steek who have also championed this issue and worked very hard to get to this day as well. As well as the current members of the Committee. So thank you to everybody.

I'd also like to show some appreciation and acknowledgement to the community, the advocacy groups, the business leaders and individual citizens who participated in many hours of meetings and discussions and gave of their time and energy to input into this issue. So I thank you all.

With the passage of this total ban on smoking in enclosed public spaces, Winnipeg is joining with other progressive cities across North America. We are raising the bar and challenging ourselves to look at smoking as a health issue. But even looking at it from an economic viewpoint, this approach is a success. We are not the first place to ever do this. All over North America and in comparable cities to us such as Ottawa, total smoking bans are in place, and they are working. The sky has not fallen, the economies are on track, people have continued to go to bars and restaurants.

Other cities have found these same kind of results that I'm confident we will find. The effect of this by-law will be to raise the standard to ensure that no smoking occurs in all enclosed public spaces. This allows greater opportunity for all people to participate in the cultural life of this city. This allows all people to go to bars, nightclubs and restaurants in comfort and in health.

Other cities that have done this have reported the added benefit of a great sense of civic pride from their citizens as people feel proud to be in a city that is smoke free and to call their city that.

This new by-law will also address the difficulties we have with the current by-law. It creates a level playing field and is enforceable. The smoking ban is very straightforward. It will be carefully worded and designed with few exceptions to prevent loopholes such as we saw with the current by-law where some businesses chose to ban children.

I'm not going to go into too much detail about the different issues with private clubs, we will be debating those as we look at the amendments. We certainly have the authority to implement this ban according to the new Charter. Because of the new charter which only came into effect January of 2003, the rules have changed, and the City has the authority fully to implement this by-law. That is one of the reasons that it couldn't have been done sooner.

It's expected that the Province will fully comply with the by-law. I think that's of a concern to people. I think that's something that's quite clear, they've done that in the past and although that's not been officially stated at this point, I'm quite confident that we will see that in casinos and other provincial buildings.

With both Brandon and Winnipeg having strong non-smoking by-laws in place there's a strong message being sent to other levels of government. The majority of citizens in Manitoba are living under a total ban. The obvious next step is a province-wide ban.

The Federal and Provincial Governments need to take the lead from municipal governments across the country who have demonstrated strong political leadership on this issue, and I think that they will in time.

I urge all councillors to support this total ban. The attitude of the public has changed dramatically since the days where people smoked in movie theatres, in schools, and in this very council chamber.

(1:55)

This is about the change. The public has changed, the attitudes have changed. The majority of the public expects smoke free environments when they go into an enclosed public space. Today we have the opportunity to make that happen. Thank you Mr. Speaker. I'll speak to my amendment later.

Mr. Speaker: Thank you Councillor Gerbasi.

Councillor De Smedt: I would like to make a motion of referral or layover if I may.

Mr. Speaker: You may briefly explain it, it's always in order.

Councillor De Smedt: Just briefly Mr. Speaker. The support I have for that is attested to in the amount of amendments and motions that we have here to consider the issue.

It strikes me that when we are dealing with public policy and I think as Councillor Eadie has so eloquently stated before on another issue, we're here about making policy and about making law on an item that is very significant that we tend to get together and have a seminar. We have not had a seminar on this issue. There are late breaking amendments that are coming through by the Chair to eliminate private functions. We have not had a discussion and an issue on this thing.

As you know, we have the Province that is trying to take the lead on having a province-wide ban. We've had delegations in support of that. Many of us are in support of that particular position as well. So I think this is the time to just pause for a moment and I surely think we could take an extra 30 days to allow us to get together and have some common sense and look at all the issues that are being elicited here through these various motions of amendments. We could have a proper analysis amongst ourselves rather than try to sit around a council table which is a more formal scene without the benefit of the Administration and other reports to support some proper analysis.

I really feel Mr. Speaker without really affecting the ultimate outcome because EPC has already introduced a motion to amend the delay of this from May until July, so already we have some timing elements that would allow us to sit down and review this in second sober thought on the ramifications of all the issues that are being presented today. I offer that to my colleagues. I think it would be wise to lay this over.

Mr. Speaker: Councillor Gerbasi did you wish to speak against the motion?

Councillor Gerbasi: Yes just briefly Mr. Speaker. I think we've been debating this issue for many many years, and we had lengthy all day session of the Standing Committee, I think the Standing Committee's very comfortable with the process in terms of input and time for this. I believe there's been adequate time to debate this. I believe there's an expectation that we proceed with this. I urge the Council to vote against the motion to refer. Thank you.

Mr. Speaker: Question. Recorded vote has been called for. You moved referral with the amendments as well? Referral of the clause and its amendment back to Standing Committee. All in favour of the motion please rise.

A RECORDED VOTE was taken the result being as follows:

Yeas

Councillors De Smedt, Wyatt, Lazarenko.

Nays

His Worship Mayor Murray, Councillors Eadie, Angus, Clement, Gerbasi, Lubosch, Pagtakhan, Smith, Steek, Steeves, Thomas, Vandal, Mr. Speaker Councillor O'Shaughnessy.

Deputy City Clerk: The vote Mr. Speaker, Yeas 3, Nays 13.

Mr. Speaker: Motion is defeated.

We'll now have the introduction of the five amendments in reverse order beginning with Councillor Wyatt on Motion No. 6.

Motion No. 6
Moved by Councillor Wyatt
Seconded by Councillor De Smedt

WHEREAS tobacco products are not a declared illegal substance,

AND WHEREAS the Provincial Government regulates the sale of tobacco products;

AND WHEREAS the proposed smoking ban will attempt to regulate private clubs such as legion halls, religious clubs and ethnic cultural clubs;

AND WHEREAS our Common Law system has a tradition of protecting and defending private property and private property rights;

THEREFORE BE IT RESOLVED that the proposed smoking ban being proposed as "Option 2: Total Smoking Ban" be amended to include Private Clubs" under the heading "The following minor exceptions apply only to situations that can be considered to be "people's private space".

Councillor Wyatt: Thank you. I rise today to make an amendment here. I think it's pretty self-explanatory. I'll read it into the record.

Mr. Speaker I make this motion because I think it's pretty self-evident that there's a great move afoot to ban smoking in all public places. I emphasize that Mr. Speaker, public places. When I last checked tobacco and tobacco products were not declared a legal substance. I know there's a big move afoot right now to legalize the smoking of marijuana which I find ironic since we're debating this here today we'll be able to smoke marijuana, but we won't be able to smoke a cigarette or a cigar.

The interesting thing Mr. Speaker I really the move to have a smoking ban in all public places is laudable and it was supported by my Standing Committee, Protection and Community Services, though I did raise a number of reservations and I still have those reservations today.

Clearly Mr. Speaker, when it comes to private clubs and private operated facilities that are not open to the public and are not a public space we as a city I don't believe have the right to come in and demand something which clearly is not a product which at this point in time the Provincial or Federal Governments have deemed to be illegal, or as far as that goes has deemed to be unhealthy by way of workplace safety and health regulations at this point in time. The Province has not done anything on this matter. I don't know why we feel we have the jurisdiction or the knowledge or the expertise to determine that we have the authority to step into private clubs and make this decision. And I don't think we do.

That is why I'm rising today Mr. Speaker to make this case that as far as I'm concerned private clubs whether they be legion halls which are across this entire city or a religious club or a cultural club and these are examples given which have specific by-laws for their members which have two under if they're serving liquor for example have to apply under liquor licensing required to ensure that they follow provincial regulated licensing standards when it comes to liquor licensing. That private clubs are well regulated when it comes to our liquor licensing, I don't think there's a question of a whole bunch, a whole issue opening up here that everybody would rat on and get private clubs because they have to deal with the provincial regulations and the licensing requirements stated by the Manitoba Liquor Act and the Manitoba liquor laws.

I feel that is a major red herring. I think we as a society have respected private property and private property rights. I can remember back to the days and I can now see the wisdom of this, the days when we were debating the Charter of Rights and Freedoms back in the early 1980s when our famous and our great one of the greatest premiers I think we ever had, Sterling Lyon rose up and said, we should have private property rights, a man who was ahead of his time when it came to balancing budgets and ensuring that we live within our means, of course he was soundly defeated because of 20% inflation rates and everything else that we were faced with. Nevertheless, he argued that private property rights should have been placed into the Charter of Rights and Freedoms. I think he had a very good argument under our system of English Common-law and the respect that we have for the Common laws of this and private property of citizens in this country.

(2:03)

We don't believe in being able to rollover and demand and make dictates as a civil society that sometimes the rights of the individual and private property are important, and I think this is one of those times Mr. Speaker. I realize that in the view of the collective and the collective importance of a certain issue, that sometimes it's crucial that we as a society work together to achieve our collective aims such examples are given at times of war and other great times of crisis and chaos, we as a society recognize that.

But clearly the Federal and Provincial Governments have not recognized that smoking is legal, tobacco products are a legal product that is still a legal product, they still tax it, they regulate it, they still regulate the sale of it. It's still as far as I'm concerned a private choice of whether you want to go and smoke or not smoke that is up to the individual just as it's up to a private club Mr. Speaker to determine whether or not they want in their by-laws the right to smoke or not smoke. It comes down to that. I feel we as a council are really over-stretching our bounds to be able to do this today. It's a philosophical argument that's before us today and this is where I stand on it Mr. Speaker. I would stand on it if it was an issue other than smoking as well as far as that goes. Thank you Mr. Speaker.

Councillor Angus: Under Section 48 I'd just like to leave clarification something on the record.

The intent is to decriminalize marijuana not to legalize marijuana. I wouldn't want my phone to start ringing that we are attempting to legalize marijuana. Thank you.

Mr. Speaker: Your point of order is not in order. So you can't make it.

Motion No. 5. Councillor Eadie.

Motion No. 5
Moved by Councillor Eadie
Seconded by Councillor Angus

WHEREAS the Government and Legislative Assembly of Manitoba have refused to take any action to date to implement legislation that would ban smoking in all indoor public places in Manitoba, including casinos;

AND WHEREAS the proposed new by-law to replace the Smoking Regulation By-law would contain clauses prohibiting smoking in all community centres at all times, including those times at which adults only are in attendance to play bingo;

AND WHEREAS community centres rely heavily on their bingo revenues for the funds required to keep their centres in operation;

AND WHEREAS a smoking ban in community centres may cause numerous bingo patrons to take their business to local casinos where smoking is presently allowed at all times, thereby causing serious financial losses for community centres;

THEREFORE BE IT RESOLVED that the proposed new by-law to replace the current Smoking Regulation By-law contain clauses that would specifically prohibit smoking in all casinos within the City of Winnipeg.

Councillor Eadie: Mr. Speaker, the purpose of this particular proposal, I'll read the resolve part.

THEREFORE BE IT RESOLVED that the proposed new by-law to replace the current Smoking Regulation By-law contain clauses that would specifically prohibit smoking in all casinos within the City of Winnipeg.

Let's be clear, we're not actually dealing with the by-law today, we're dealing with clauses that would authorize the drafting of a new by-law to replace the smoking regulation by-law and that by-law would be coming back to Council at a future

date for the required three readings and adoption.

In the reports that have been generated on this since the review of the smoking regulation by-law was undertaken over the last few months, our community centres or at least the majority of the community centres are generally supportive of new legislation that would ban smoking in all places including community centres. But many of them expressed a concern for their bingos. Whatever it is that bingos do that attract smokers is beyond me Mr. Speaker, but in any event, bingos are the life blood, they are the main source of revenue for most of our community centres in the City of Winnipeg. If we pass legislation that is going to ban smoking at all times in our community centres, it is a certainty that those who have an addiction to bingo and also have an addiction to smoking are going to be taking their business to the Casinos where they can smoke at will. It's going to cause a major financial hit to our community centres which they are not going to be able to make up. We have no funding in our budgets to make up for perhaps a two or three million dollar total annual loss and revenue.

There's been no announcement on the part of the Provincial Government or no statement made by the Provincial Government that they would enforce a new by-law in their facilities. They came to the, when we passed the current by-law they dragged themselves kicking and screaming towards enforcement of the by-law in two-thirds of the City of Winnipeg where we as a city government do not have enforcement authority, and that's all of the areas outside the old City of Winnipeg where we don't have health inspectors.

The purpose of this amendment is to indicate support for the concerns of our community centres which are at the end of the day our facilities. It's to indicate that this by-law if it's going to be passed and it will, this by-law must also include the Casinos, and therefore the Provincial Government since there has been no act so far taken to bring in a province-wide ban on smoking in public places, the Provincial Government is going to have to make a policy decision. Will they enforce our by-law in their casinos or will they not? I think it's important that we put this in our by-law when it comes forward that we make a statement that it must apply to the Casinos. We send a message to our community centres that we have heard the big concern they have with respect to a full ban throughout the City of Winnipeg and we want to send a message to our community centres that we're going to try and make that level playing field level for them as well so that their bingo customers are not going to escape in droves to the Casinos where presently smoking is allowed and where provincial policy is silent on disallowing smoking in the Casinos.

I bring this forward Mr. Speaker so that if it's approved by City Council it can be a part of the by-law when it comes back. We send a message that we are supporting our community centres, we also send a message to the Manitoba Legislature and ask them what is your policy.

Mr. Speaker: Thank you Councillor.

The next amendment Motion No. 4 by Councillor Lazarenko. I would just point out Councillor that the previous amendment does overlap somewhat with yours although they are distinct but you would have to restrict your remarks to the reason for the timing of the ban being, our ban being the same as the timing of a provincial ban not the point of the Province not allowing them in casinos because that part is covered.

You have ten minutes as long as you restrict it to the coincident of time.

Motion No. 4
Moved by Councillor Lazarenko
Seconded by Councillor Wyatt

WHEREAS a level playing field is a key consideration in the development and implementation of a by-law that will prohibit smoking in all enclosed public places in Winnipeg;

AND WHEREAS the City cannot regulate smoking at casinos, which are under provincial jurisdiction;

AND WHEREAS casinos are a particular concern to private non-profit clubs and community centre because casinos also operation bingos;

THEREFORE BE IT RESOLVED that Recommendation 1 of the Report of the Standing Policy Committee on Protection and Community Services dated March 3, 2003 be amended by deleting the words "May 20, 2003" in the fourth line and substituting therefore the words "at the same time and on the same day as a total smoking ban comes into force at casinos operated by the Provincial Lotteries Corporation".

Councillor Lazarenko: Mr. Speaker, I've been working on this motion now for the past week.

This motion goes further than the motion that is before us, Motion No. 5. This is asking for our by-law is not to come into effect until the Casinos butt out. This disturbs me deeply to see that we're back in these chambers in the chambers of confusion that the issue is before us again.

Comments have been made by individual councillors do not know the meaning of what is before us or at least they're not familiar with it. To make comments and statements such as the smoking by-law that is before us now, that this will have an effect on the private non-profit clubs and community centres because casinos operate the bingos, you can smoke, you can do what you want because legislation gives them that authority.

Where's our rights? We're going to be imposing onto the citizens of Winnipeg a by-law that has not been discussed fully. What was before us yesterday, and what's before us today there's a difference. What was discussed, we discussed the issue of all indoor public facilities to ban smoking. I feel casinos should be one of them. They should have been the first ones to take that lead role.

What major effect it's going to have on what is before us. We've got a number of amendments that are coming before us to deal with the issue, I'll touch later on the effects, the regulations, the rules of the Liquor Commission that has been misunderstood by Council. Has been misunderstood by delegations that went to the Standing Committee and fit some members of that standing committee to say that this is what will be happening with the bars that they will classify themselves as a private function.
(2:10)

Hogwash. Complete hogwash Mr. Speaker. We've got laws in place dealing with liquor in the Province of Manitoba, which is called the Manitoba Liquor Control Commission. I've had talks with them, I got some information pertaining to that. You cannot sway away from that law. Whether you're private or not private you can't. It's unfortunate that even those who are here in opposition. The hotel owners, the restaurants are not referring to the law at all of the Province of Manitoba which is called the Liquor Act. That gives them that protection only if they would use it.

Confusion once again Mr. Speaker in these chambers. It's very unfortunate that you have members of the Committee and members of Council that will go public and say things that are not true or their understanding they think that is true but in the meantime it's not. It's not factual. Massive confusion in the City of Winnipeg. And concerns, deep concerns Mr. Speaker with some of the non-profit clubs that have a private club that they can socialize in…

Mr. Speaker: Councillor Lazarenko I've stopped your clock. Are you speaking to the clause?

Councillor Lazarenko: I'm speaking to my motion.

Mr. Speaker: No you're not. Your amendment is only why the timing of the implementation of our by-law should be coincident with the timing of a similar regulation in casinos. Nothing about

private clubs, nothing about the Liquor Act.

Councillor Lazarenko: I have to go in this direction because Council….

Mr. Speaker: If you go beyond that point I'll rule it as you're speaking to the clause and this will be your only 10 minutes. You can say what you're saying under the normal debate but if you're introducing an amendment to make the implementation time coincidental. That is the only thing you may speak to. You shall have a further 10 minutes to speak to the clause. That is my ruling. You may challenge it if you wish.

Councillor Lazarenko: Don't beat around with me.

Mr. Speaker: You're not getting 20 minutes on the general motion no one else does Harry.

Councillor Lazarenko: Then I shall continue in this manner. Go further, ours is to go further this motion. To make it in effect when the Casinos butt out. I'm saying that we should go and wait until the Casinos come into effect. Coming into effect with the Casinos until the Province decides to do that then it will be in effect. Am I making any sense? I have to repeat myself over and over again, try to put a message across.

Mr. Speaker, I've talked about the confusion in these chambers. When other members are allowed to speak on the issue because how else can you address only a two word two lines in a motion. You can't, you've got to allude to what you're talking about. You can't just go ahead, sure my time is going now because I'm talking, it's stupidity to say that I'm not allowed to talk because I'm supposed to talk only why. I've said, how many times do I have to repeat myself, we should until it comes into effect. Then it should be set a ruling that you talk only for two minutes mention what you want and no more because anything beyond that you have to talk and explain yourself really why this motion is here in the first place. Why is this motion here in the first place. Why is the clause here in the first place. Because of massive bloody confusion that's what it is. And some of us are not allowed to speak and speak our mind this is not what you call democracy. This is not what you call the delegation comes here the businesses who are the hub of our city, the taxes they pay and they cannot speak because the rules are rules. The hell with them. I'm just getting damn fed up with it because it's senseless for me even to stand here to talk and to say exactly what the meaning of what we're here for.

Basically Mr. Speaker, I have to emphasize myself one more time. I wouldn't be making this motion if there was something in here that I'd be satisfied with. The only way this motion I could address here today is by speaking what I'm saying because this is what alludes. Mr. Speaker I'm not trying to use trickery in the Chambers to try and send my message across. I'll have my chance to speak to the clause and also to the amendments later on.

The Casinos are exempt and we fear the Province because the Provincial Government it is not within our rights because it's not in the legislation. If this is not in the legislation where do we stand, why are we dealing with this? Don't even bother. And if the Province is so concerned about the health issue in the Province of Manitoba, why is the Premier now saying, well in the Casinos we are going to look at this and we will abide always by what the City is recommending. We'll take a look at it. We concur most of the time. Do you think the Casinos are going to disallow smoking now with the elections coming on stream. They'd be blatant fools to ban smoking in the Casinos now. Thousands and thousands of people in my area I've got people that are senior citizens who are going to the Casinos soon as it opens they're gone by bus by vehicle to gamble and most of them smoke. I've talked to them, I've seen them, most of them smoke. They don't go to the community centres, they do not go to halls that have bingos. They go to the Casinos because they are allowed to smoke, no one pesters them. They've got a drink if they

want to drink. They sit there, they're protected because no one is saying look, quit blowing the bloody smoke in my face. Do you think that Premier Doer and his Cabinet with the elections coming on stream is going to say we are going to ban smoking at the Casinos. I think not. If either one of you are thinking then you should be in his cabinet. Because I don't think that will happen. It's too crucial an issue.

Look we've been playing games over and over again with the Province. They promise, they say they'll do this and in the meantime they don't. They ignore us, and it's a known fact legislation does not allow us to implement casinos, we can ask the Province to implement and make that as a rule, a policy that the Casinos will be smoke free. I'd like to see someone tell me from those who are members of the New Democrats come and say, I've talked to the Premier the Premier rest assured me here's a letter I got from the Premier will be coming into place within the next two months or there. We have the business community coming telling us, begging us please, and now the Casinos are going to be exempt. What kind of a legality, what are we trying to do is to destroy the hub of this city. We have been sending people because of what the rules we implement, people are going to the Casinos to play bingo because we have some community centres now say look, smoking really we don't want so people abide by that. You turn around and say look, I'm going there because there's ample place to park. I'm not harassed by anybody, I can go there and I can play and I can smoke all I want.

Mr. Speaker, I just hope that Council will take this Motion No. 4, don't put it in file 13, some of you I think are looking at it right now that's where it will be going. But I'm asking you especially you Councillor Clement stay on my side for a change. You've got a lot of pull, you're fiscal issues, you're the big boss of the money situation. So you come on side and say that we will implement it as soon as the Casinos are going to be smoke free.

Mr. Speaker: Thank you Councillor Lazarenko. Councillor Gerbasi you have an amendment to your own motion.

Motion No. 3
Moved by Councillor Gerbasi
Seconded by Councillor Lubosch

WHEREAS tobacco smoke is a health hazard, is a nuisance to or detriment to persons, and that it is necessary to protect the safety, health and well-being of persons;

THEREFORE BE IT RESOLVED that Item 1 of the Report of the Standing Policy Committee on Protection and Community Services dated March 3, 2003 be amended by deleting the words:

"A room or hall used exclusively for a private social function".

from the section of the report labelled "Options #2 Total Smoking Ban".

Councillor Gerbasi: This amendment is quite clear and simple. It removes the exemption for private social functions.

This arose out of a concern that was raised by several councillors and several groups that have been advocating on this issue.

(2:20)

There have been a few changes as its gone through the process, we've changed the date as well to July 1. This is one other recommended change that's come forward.

One of the concerns that led to this bringing this forward is the concern about policing and enforcement. There is potential for this exemption if it's allowed to stay in to be used as a loophole by people masquerading as private social functions to by-pass the intent of the law. That is one of the issues that was raised. Again we'd be faced with the issue of a lack of a level playing field as people find ways to circumvent the intent of the law, which is what we found when establishments banned children before.

The other issue that I think is making this exemption exempting private social functions making us uncomfortable is that community centres are one of the kinds of facilities that rent their spaces for private social functions. Many community centres are attached to daycares. They are clearly considered enclosed public spaces that people are going to expect to be smoke free. When you walk into a bar and you can't smoke and but you can walk into the community centre and smoke, I think that's an inconsistency that is simply unacceptable and ununderstandable people. It's simply unfair to do that.

I spoke yesterday with Marlene Amell, of the Greater Winnipeg Council of Community Centres has been publicly stated that the majority of community centres support a total smoking ban as long as the playing field is level.

We also do have the authority to do this according to the new City of Winnipeg Charter Act to enforce this in both private clubs and private social functions. We do clearly have that authority that's been the advice we've been given.

With that this amendment will make the by-law clear, fair and to use one of Councillor Steek's favourite words, unambiguous. I urge you all to support this because the whole purpose of total ban is to have a total ban, and to have something that people can understand that makes sense to people and this makes sense. Thank you.

Mr. Speaker: Thank you. Mr. Mayor did you wish to introduce the EPC amendment.

Mayor Murray: Two amendments from Executive Policy Committee Mr. Speaker. One to deal with tobacconist's which is Thomas Hind, which is a sole purpose business that where they sell tobacco for consumption in the home. It's a little extreme that you can't smoke or won't be able to as of this summer in restaurants and public places for sole purpose and I want to emphasize that when the by-law is being developed that this is for single purpose retailers. They have to be able to try the product, it's very hard to sell a product you can't try. It's general consensus on Executive Policy Committee since people are purchasing these solely for the purpose of use in the privacy of their own home. You had to have a point of contact to try it. That seems like a reasonable compromise. It doesn't deal with second hand smoke affecting other people. It deals with a situation where everyone in there is there to purchase tobacco with the intention of purchasing it. It's a very minor minor amendment.

The other one is more substantive, it's to move to July 1, to Canada Day. The reason for that is, is that enforcement is going to be the issue I think and where we require it to two-thirds of our municipal jurisdiction to be enforced by the Province of Manitoba and we need time for an education campaign. It was felt that July 1 was a reasonable time to get that information out there and do the education and work that needs to be done. It buys us some time for some of the restaurateurs and bar owners to have a little bit more lee time to adjust to it. I think we've heard from them that there was some concern about time.

Finally Canada Day is an easy day to remember. When does Winnipeg go smoke free? On Canada Day, we could actually maybe as part of our national celebration this year have a butt out party on Canada Day.

If I could just add one thing. I'll speak to the main motion. I've spoken to the Premier twice in the last seven days, he's assured me that as they always have the Province of Manitoba will respect our by-laws and all of their places, casinos and others. I spoke to him on the phone again yesterday and so we have his assurance of that. I think that's very clear. But I wanted to put that on the record because I know some of you were concerned about that, Councillor Lazarenko, Councillor Eadie. I've had two conversations with the Premier right now. He's assured me in both those conversations that he will support the by-law, will respect it as they have our other by-laws. Will work with us to enforce it. I think he's been quite clear about that. I

think his concern is and I'll talk about that when I mentioned it, is that they've got a legislative committee looking at this right now, and I think we may want to keep a little flexibility to coordinate the implementation of ours with theirs if they land where we've landed.

Right now, barring any unforeseen events, I think we're moving to July 1. Thanks.

Mr. Speaker: Thank you. Are you ready for a speakers list? Would anyone like to speak? Mayor Murray. I have Councillor Lazarenko, Vandal, Smith and Mayor Murray.

Councillor Lazarenko: Mr. Speaker, I rise to speak to the clause. I am not opposed by what is coming before us. I believe that we should be smoke free. Smoking is harmful, there's no question. I lost a brother 10 years ago, and he died of lung cancer. He was a smoker.

The way this is being introduced Mr. Speaker that gets me. Confusion again. When a delegation was here today I asked the delegation comments were made, in the Winnipeg Free Press today that it said, that there would be loopholes that the industry or the bars will be able to find and then go and charge admission at the door and say that this is a private function. He said that is not true. I've been in contact with the Liquor Commission, some members had said, yes, five dollars they'll be members for life, they can go into the bar anytime they want, so it kills our purpose. False information. I assume Mr. Speaker that could be challenged in a court of law because this is being misused, the information is being misused in these chambers to pass a motion that is a detriment and a loss financially to some groups that are barely surviving, such as some of the restaurants that is marked as the bars. I don't frequent the bars, but I know that a lot of people do and those bars have expended, they spent a lot of money. The first time the proprietor of the hotel chain had said today, hundreds of thousands of dollars because when we're dealing with this, they had abided by what we wanted to do and then all of a sudden we give them one year, then it's a total ban.

What was admitted with Option 2 and it made it very clear, the following minor exceptions apply only to situations that could be considered peoples private space. Try to understand that.

(2:28)

Put that in your minds. People's private space you have to respect that it's under the Charter and the rights of every individual Canadian.

Talks about a room or hall used exclusively for a private social function. That has been changed now. A flip flop has been made. This is back to us again, they've said it's not going to be introduced. Some of the Administration that provided these reports, I wish they would have been on holidays when this was being dealt with. Misinformation.

Also the pros, the option recommends that smoking not be permitted in private clubs. There it goes. By peoples private space.

Legions, private clubs such as non-profit organizations, culture groups. You've got the Press Club, I had a gentleman call me a former president Mr. Sullivan call me and said please speak on my behalf. This is unbelievable. I go there and I enjoy my cigarette, I go with the other group to and sit and talk. That will be barred.

What is going to happen to the cabarets? When someone says that this is a loophole, I wish Dr. Taylor if he's listening, I wish he would retract his comments because I asked him very clearly today, is that what he meant, he said I would have to listen to the tape. To say that this is going to be a loophole that the owners will sell tickets at the door and argue that they were holding a private function where smoking is permitted.

Some members of the Committee agreed with that and said that they will be voting for it. The Liquor Act does not allow that only if they would check.

I have called Diana Soroka the Manager of the Communications with the Liquor Commission. As per our discussion I'm faxing you a section from our licenses, field manual which outlines policies and procedures regarding compliance to the Liquor Control Act, I'm sending you a section of the operating policy for all licensed premises dealing specifically with the issue of the licensing. Please not that licensing establishments may only be allowed to apply four or five times a year to be licensed for an occasional permit function, approval is made upon application.

It also states what kind of a license is acceptable. The bars do not have a private license. To allow a private license this bar would have to make an application to the Liquor Control Commission submit all their charter, their by-laws, their members, their executive of that organization then subject to approval they will be granted as long as they're non-profit.

For someone to say that this is a loophole is incorrect and this has to be corrected, it has to be put down on record.

Also to say that they will find ways of getting around this. The Liquor Control Commission Act of the Province of Manitoba does not give authority, they inspect, they monitor. What the clubs would have to do or the bars, the hotels, they would have to delicense their premises to hold a private function, and that is called an occasional permit. That is not given to them just because they apply for it. It has to be approved by the Commission. Good standing of that individual person, no police records. That's how they operate. This is what you call, it's been in operation with the Province of Manitoba for many years under that Act. That was legislated many years ago. But someone to use the word loophole, and to say that this is how they're going to do it. A private club license shall not sell membership at the door of the club but may accept applications for a membership at the door which are to be considered at a future meeting of the board the directors of the club. Section 39(4).

There's more. A lot of it I just don't have the time to get into this. If I had known that this was being dealt with by the Protection Committee, I would have gone there as a delegation. But I was with the assumption that it is to be all enclosed public premises. That's why I did not bother because I believe in that. But I believe also that the Casinos should abide by it and I'll tell you they're not going to listen to us because we're the City, we're the lowest in the totem pole in politics that the Province is going to jump and listen to us. I think we've got dreams.

When you deal with the private club some say the abuse there will not be any. What concerns me from the beginning when the question was raised, I had an e-mail yesterday, yes we are going to allow the private functions socials. These private function socials will be at any place such as a legion, may have an addition to their legion where they have a hall and there's a social, people can smoke because they have applied for that license. But the members the veterans will be sitting at the legion, cannot smoke, they can smoke if they go out of there, go in there pay for their ticket and have a smoke come back into the legion. This is unbelievable. My God some people have respect for the people that saved this country, people that made this possible what we've got here as we stand here today. If they wouldn't have done what they did we would have been talking here maybe in German. This is how far this thing would have gone. Democracy at work. Respect those that helped us that saved us.

Not even consider to say that the legions and the legions have provided all what is needed. They provided also with the ventilation system to a big expense, and they are hardly making ends meet. Some of the private clubs, some organizations have gone to this part from last year. They provided a ventilating system costing, they borrowed money that all of as sudden we're clean their clocks. They cannot hold bingos and if they do, no smoking. Can you imagine an old woman or a man that comes in to play bingo, and as they're playing an inspector

comes along, excuse me ma'am, she's busy, she's thumping those 20 cards or so. Excuse me, B15 is called. Bang, bang, bang. Excuse me ma'am, what do you want? You're in violation of the Act, what Act? You're smoking illegally. She says, I'm what I'm going to be charged? All of sudden B15 or 17 is called, O75 is called and bingo she lost. She would have won the first number that was called, so what happened to this particular one, one inspector she took the purse, and she let him have it right to the side of the head. He fell on his rear end. He got up and walked the people applauded her. When I asked the Commission that time why weren't charges pressed? Do you think we want front page stories of how the City is treating old people because of a by-law or a law. I'm saying Mr. Speaker.

I know sometimes you get things emotional. But I'm just saying, please, use common sense and think twice because there's too much at stake here to introduce something by some innuendos. Comments that were made by people didn't have the damn authority to say that in the first place.

Mr. Speaker: Thank you. Councillor Vandal is next.

Councillor Vandal: Thank you Mr. Speaker. This issue has been around for so long that I'm certainly not going to need 20 minutes to make my point. I think it's been debated and discussed at Protection Committee for three years, at Executive Committee for three years, and on the floor of this Council.

Quite simply this is a question of freedoms, pure and simple. I can't recall from my university days which political philosopher it was who said, a persons freedom ends at another persons nose. But I think that's a classic example of why this law is needed today.

(2:35)

Every citizen in the City of Winnipeg, man, woman and child should be able to breath clean air in any enclosed public space that he or she enters into. Every person has the right to not be polluted by second hand smoke. Why? Because second hand smoke is a carcinogen. Carcinogens case cancer. If you think about that for a few seconds you'll realize the common sense to this initiative that we are doing. The decision becomes very very easy to make.

We are not saying people cannot smoke anymore. We are saying you cannot smoke in the presence of other people. You can smoke outside. You can take your habits to your home. You can just not smoke in the presence of other people. You know what? There's going to be some dislocation, some flux early on, but people are going to continue to gamble. People are going to continue to play bingo. People are going to continue to drink. I dare say that I'm willing to bet a wager that people will be drinking in a year from now. Everything will have ironed itself out. People will continue to go to boxing matches. In fact there was a boxing match two weeks ago at the Winnipeg Convention Centre with the largest crowd to attend that sort of function in the last ten years. You know what? No smoking. If you had been there ten years ago, you would have thought that would have been impossible but people simply did not think about it.

I want to speak to the amendments. Councillor Gerbasi, Motion No. 3. I fully support this. Private social functions will no longer allow smoke. I think you have to look at the example of community clubs. How can we ban smoking from a hotel in one part of the City and then say, come to this community club and smoke here. Does not make any sense. I think if this goes through without the amendment you will quickly find public functions becoming private functions one way or another.

Councillor Lazarenko, Motion No. 4. Coincide our ban with provincial lotteries. The ban of provincial lotteries. Councillor Eadie's same motion essentially only that we write in within our by-law to prohibit smoking within the Casinos of the City of Winnipeg. Quite simply we don't have the jurisdiction over crown corporations, and we have about as much jurisdiction over crown corporations that we do with

Canadian foreign policy. I think both those motions are out of order.

Motion No. 6, Councillor Wyatt about private space, I believe I've already spoken on that. I will be supporting the report and amendment No. 1.

Finally, this has been a long time coming since '99, I was Chair of the Committee. I want to thank Councillor Lubosch who's really been the stalwart of this movement. Let me be even more direct and at the risk of going over the top I think this initiative which has been championed by Councillor Lubosch is one of the most significant urban health care reforms in the history of the City of Winnipeg. That's really how significant it is. I think this should pass unanimously.

(Councillor Lazarenko in the Chair)

Mr. Deputy Speaker: Thank you. Our clock has seized to work. Some of you may think you'll be able to talk 15 minutes like I did which I never even got 9 minutes. It's being monitored. You'll be well-advised when your time.

Councillor Smith.

Councillor Smith: Mr. Speaker, yesterday I went to the Pan Am Clinic to see my doctor for my foot, and the first thing he asked me, is Council going to pass this by-law, banning smoking in public places? I said yes. But you know, I'm still worried because you know when this first came up at our standing committee it came up because it had not be acted upon the year before. I moved that we set up a sub-committee and I moved that we have Councillor Lubosch as Chair. I served on that committee. That committee and every standing committee since have all been for a complete ban. A year ago we tried for a complete ban. The EPC members opposed it.

I don't know what the change has been in a year. The same situation that were being forecasted that point by us proved to be true. We were right. I'm not saying this to give hell to the EPC members who did not go for this a year ago, I'm here to congratulate them for finally seeing the light. Because it's important to have a level playing field. Why should we have restaurants like the Salisbury House and Perkins opening up lounges to accommodate their smoking customers? Why are we encouraging drinking in those situations? A level playing field is necessary.

Then we have the concern by Councillor Eadie and Councillor Lazarenko about the Provincial Government about the fact that you have casinos and if they don't enforce the law are law that it will really have all the smokers rushing to the Casinos to gamble and smoke.

The fact is, in the Provincial House the Leader of the Opposition has said, they want a complete province-wide smoking ban. All you have left is the little Liberals who are always on each side of the question.

The fact is, the Provincial Government can quite easily do this because the Opposition is in favour with them. There's no problem with that. Plus you heard the Mayor speak. He said, he talked to the Premier. They've agreed to go ahead and enforce our by-law in the Casinos. There's no argument, we'd have a level playing field and it's about time. Wouldn't it be nice if we all voted unanimously for this. If we all thought of the health of the individuals all of our citizens who are confronted with second hand smoke. Let's open our minds and our hearts and let's vote unanimously for this by-law.

Mr. Deputy Speaker: Thank you. Mayor Murray.

Mayor Murray: Thanks Mr. Speaker. Equally important I have to commend Councillor Smith on the choice of his tie today. You've had most of your body parts since before I had mine.

I just think if you were betting around here who would show up in Council anyone would show up at Council with a tie that Harvey Smith owned, I would be the last person.

Councillor Smith and Councillor Lubosch and Councillor Steek and Councillor Gerbasi thank you very much for your leadership and your work as the Committee that brought this forward. I want to echo what Councillor Vandal said about Councillor Lubosch. I have been the champion of many lost causes that never ever saw a majority vote on Council, but it's very important that there are people of principle and integrity who stand for things that they believe in passionately long before the rest of us saw the light and stuck to their convictions.

(2:45)

And Councillor Lubosch you've done that. It'll be one of the things that we will be very proud to support you in, and in fact I think we are supporting you and your leadership today. You deserve full credit for this by-law, and I want to thank you for your leadership. I also want to thank Councillor Smith and Councillor Steek in particular who hung in there as a support team and who articulately put forward their views and their visions on this. I think they have been very solid. Councillor Gerbasi thank you for carrying the ball on this.
(2:46)

The history of this is an interesting one for us because it's been evolutionary. I hope we are evolutionary on things like waste minimization and methane gas and many of the other public health issues where I still haven't got a majority vote but I think we've got a lot more to do, the environment, health, public health and the relationship between the environment around us and I think that's a huge issue that's opening up in city government, it will be back here in many many ways.

We a year ago did something I think was quite astute. We did not have a consensus at the time. There was a sincere feeling from many members of Council at the time and the representations that were made by the business community that the economic harm done by this was significant. We couldn't get consensus on beyond children. We did get consensus on children and we took a step forward. I think that was an important step. If we had done nothing because there was not a consensus on a full ban at the time we wouldn't be here today as well.

The fact that we gave it a year and we made a sincere commitment all of us whatever our views were on this topic at the time that this was an important enough issue that we were going to commit 12 months to revisit it. I came to this conclusion of agreeing with Councillor Lubosch during the civic election campaign when I looked at the economic impact and also talked to people about the public health impact, and I think people need to know those things before they vote for you or against you.

That's been an important step forward. I think this has been a good and healthy process and I think that sometimes you have to try things rather than do nothing is go as far as you can until you can't count to nine anymore, and that's sort of the game in civic politics. I think there's been some consensus here. It's interesting to see as how we've all learned and we've grown through this process as we've seen the impacts of that. Just the pleasure of being in most of the places that are smoke free.

There is a challenge. One of the concerns I had 12 months ago was not with the idea of going to a full ban but the problem of enforcement. I have no doubt about the Casino issue, the Premier's been quite clear. On CJOB this morning he said, when you look back he talked about the Province's reaction to our by-laws and last year banning smoking in restaurants, that they immediately complied with our last by-law in all places. He was asked specifically about casinos. He said this morning on CJOB "we're not going to have one rule. The principle is we're not going to have one rule for community clubs and another for their bingos and another rule for casinos". He said very clearly, that once there's a vote on Council today he will respect that. I've always taken that as word. This provincial government has been very good at it.

I just want to quickly say a few more things. I just want to talk about why this is the right thing to do. It was summed up when I was in a restaurant in the last seven days and a woman who worked there who was serving us said to me quietly when I was alone a person I was meeting with went to the washroom and she says, my boss smokes, my boss' boss smokes and it's been very clear to us this is not a topic of conversation that's welcome in the workplace. I said oh, and she said I just want you to know that I can't say anything about it publicly but I'm glad you're here. I think what you and Councillor Lubosch and City Council are trying to do is the right thing. And for a lot of us who can't speak who've been very concerned by our health because we've been reading and understanding the risk to our health, and we read about Heather Crowe and we really think this is very important. Sometimes there's just something that is simply right and wrong. This is the right thing to do, and I hope it is unanimous because to not vote for this at this point in time there's no excuses for not knowing better, and there's no excuses to realize that after the last year compromises don't work in this case.

I want to talk briefly about the motions. Motion No. 3 which is private social functions is I think an important one. I think that it's clear, it's crisp, it makes it universal and it's consistency with the principle.

Motion No. 4 the same day as the Casinos go. The Casinos are only going to go non smoking in the near future if we pass this motion today, that will trigger it. I cannot support No. 4 that's delaying it inevitably because we're clearly a driver here.

Motion No. 5 Councillor Eadie's motion about the Casinos. I will not support that either and advise you not to do so as much as I respect by friend from St. James. We were told quite clearly by Legal Services that if we put anything in this by-law given the fragility of our jurisdiction not being a constitutional government that implied or explicitly stated that we were trying to enforce this in something that wasn't our jurisdiction that would make the by-law vulnerable to legal challenge.

There's no upside to passing that. There's a clear commitment from the Premier on the public record now not to do that. I think if we add that that is a loophole that someone who wants to overturn the by-law potentially could use in court. It adds nothing. Though I agree with the sentiment and I thank Councillor Eadie for raising it, I think part of the reason that we've seen a lot of public comments is because Councillor Eadie has been very much on the ball on this and saying that we can't have two sets of rules. It was almost like the Premier is quoting him verbatim now.

Then the final one, from Councillor Wyatt and Councillor De Smedt, I just think flies in the face, it's completely contrary. You're opening up legions and you're creating an unlevel playing field and takes us back to where we were.

In closing, part of our challenge is going to be and I noticed as Councillor Steek making a note when I said this, the only thing that could change the implementation date, and I think that we should keep a door open, I think we should move to July 1 because I think it's early enough in the year, is the only thing that we should keep a door open on in this whole discussion and it's the only thing, if this all party committee comes forward and recommends a province-wide ban and then deals with Workplace, Health and Safety, Liquor Control Act legislations and other changes, I think it's going to be very confusing that if within a six, eight, nine or ten month period of time we have two smoking bans hitting this jurisdiction at the same time. One that would involve other regulatory changes to workplace, health and safety, to the Liquor Act and potentially other things. I think we should move to July 1 but I think if there is going to be a province-wide ban within the next 12 months or next six months we should then work with the Province to try and coordinate our dates. I think it's going to get very confusing if that all party committee recommends a ban and recommends changes in Workplace, Health and Safety Act and the

Liquor Control Act and the number of other things which they'd likely to do. I think we should keep our minds open to that. I want to be very clear.

Anything less than 100% to me is unacceptable I would not support it. I think in the absence of that which I think it might be the case, we should move on July 1 but if they come forward and say August 1 or October 31 or January 1 or something like that, I think we should seriously look at it because I think it's going to get very confusing.

My concern here is, on one hand that the Province does enact which I think would be unfair because they do have the responsibility for public health, they're actually going to be enforcing the by-law in the majority of this city which is a concern for me. When I went to Ottawa I met with the Ottawa Restaurant Association, I met with PUBCO this group of restaurants that opposed it. I met with the Mayor, I had a presentation on the KMPG Study and the Health Officials. They all said one thing to me. They said, when you do this, enforcement, enforcement, enforcement. They got 90% compliance in the beginning but the 10% that weren't, when they didn't see enforcement some of the 90% had tried to fall away. We're really going to have to make sure we have a strongly coordinated implementation plan with the Province on enforcement. Because if we don't have that I think this by-law is going to become problematic, and we really have to ensure and we need the help of the Medical Association to ensure that we're doing all we can to make sure that the Province fully enforces this by-law in two-thirds of the City. That concerns me more. The Casino issue where the Premier has already made a clear commitment.

(2:53)

So with the exception of the social, the amendment from EPC and the social, I would suggest the other amendments are not helpful and would weaken the by-law.

Mr. Deputy Speaker: Thank you Mr. Mayor.

Councillor Wyatt.

Councillor Wyatt: Thank you Mr. Speaker. I rise today, I've had the opportunity to deal with this issue at the Standing Committee on Protection and Community Services. I find it's unique because it brings back a lot of memories back in my high school university days, High Park debates and everything. I recall making a motion and debating actually my thesis was to ban smoking on all school grounds for both teachers and students. The key with that of course Mr. Speaker, was to involve teachers as well in their lounges and staff rooms. It was quite a radical concept at that time. It was ahead of itself I suppose. I still am traumatized from that because of the fact Mr. Speaker that some of the head bangers that hung around the Tec Voc doors tried to light my coat on fire after that because they didn't like the idea that I was going to ban their smoking. Maybe this is partly affecting me, I don't know.

I have some strong reservations, and I just pulling from that. I involved teachers and students because I felt a level playing field was crucial. I feel that today we still do not have that level playing field. We are trying to get to the level playing field but we haven't reached it.

I think there's two things we're lacking, level playing field and common sense. I couldn't help but read in the report supplied to us by our administration what other jurisdictions have done. The City of New York, and I'll just read it here. They're going to have a by-law new legislation which will come into effect in four days time. March 30, 2003. It's considered one of the most progressive pieces of legislation in all of the U.S. It's basically to prohibit smoking in public places and places of employment. It has been described as one of the toughest anti-smoking by-laws in the nation. That extends to virtually restaurants, bars, offices, pool halls, bingo parlours, bowling alleys and virtually all workplaces. Smoking though will still be allowed in some portions of outdoor cafes. In private clubs such as American Legion Halls, in nursing homes and other residential facilities which ours does

today, that have smoking rooms. And in existing cigar bars which ours does today with the amendment from EPC.

Existing bars that are owner operated and have no employees would be permitted to have smoking. That's a very fair compromise. Bars but not restaurants having been given the option of building specially ventilated smoking rooms to be either used exclusively for the purposes of smoking and where employees would not enter. Plus this exemption for bars will expire in three years time. Something like that would have addressed a lot of the concerns raised to us today by many of the businesses before us. It would have addressed a lot of the issues concerns about private clubs and the organizations out there. It would have been a very balanced and fair compromise.

I guess I'm somewhat surprised that my committee had dealt with the matter and now we're seeing it the eleventh hour and you Mr. Speaker mentioned confusion, and I guess it is to see the elimination now of private social functions to drop that exclusion. I just want to quote the Chair of my committee where she indicated on March 24, Monday, two days ago, that "private social functions are exempt". Private social functions means a specific social event for which an entire enclosed room or hall has been reserved and which attendance is limited to people who have been specifically invited or designated by the sponsor, but does not include events which are held primarily for the purpose of business, sales or education. Very clear Mr. Speaker and why it's being struck out now by Motion No. 3 is beyond me.

Clearly it does not create a loophole for bingos or businesses that call themselves or their events private socials and by-pass the law. The rationale for excluding these functions is that they really are private functions. I'm quoting the Committee Chairs' words, her own words. Such as "family, wedding, socials, etc., and the involved people renting private space for personal use". Private space again Mr. Speaker. The whole issue of private clubs and private space that in the realm of public open spaces a ban absolutely, but when it comes to private spaces we question that. Casinos are public open spaces. I support the recommendation or the amendments that are being proposed by Councillor Eadie and Councillor Lazarenko. I believe they're heading in the right direction. I believe if it's the case that the Premier has said today on the radio, that casinos will be effective and there'll will not be a problem, we're going to go ahead with this if the City passes this by-law then let's take it for face value and vote in favour of these motions, it wouldn't hurt at this point if the Premier's saying he's in favour of it and he will do this. Everyone should vote in favour of those two amendments as far as I'm concerned. The Premier's on record, vote in favour of it. And it will happen, it will just be he's indicated it now, we've just confirmed that with him through these two amendments, and it shall happen.

I wanted to also thank EPC Mr. Speaker for the amendments they made when it came to tobacconist shops. I think there was an attempt there to apply some reasonableness to the legislation. Clearly anybody going into a cigar shop is not going in there to buy milk or bubblegum, they're going in there to buy cigars. This is a product, it's still legal product, it hasn't been outlawed and they should have the ability to test the product since cigars are quite unique much like wine. This is a reasonable amendment and I welcome it.

I also welcome the Mayor's words when it came to what he indicated Mr. Speaker about the potential the fact that this could, the effective date may change depending on what the all party committee out of the Provincial Legislature has. The key here is a level playing field.

I'm in a community which only a couple of kilometres away is the R.M. of Springfield, and to the north is the R.M. of East St. Paul. Not too far the R.M. of West St. Paul. When I was attending recently a convention of the Association of Manitoba Municipalities and some of the local elected officials Mr. Speaker came forward and spoke to me, they were from the surrounding municipalities and the first thing they asked me was when are you bringing in your total ban. They could

hardly wait for us to bring in our total ban. Here in this Council Chamber when we heard at our standing committee one of the delegations came in favour of the smoking ban, I asked why are you building a new restaurant in the side of the City right outside of Headingley to operate? Well Council we'd like to ban smoking there but we can't because of our leasing arrangement. That's a bunch of nonsense. They could have banned smoking there if they wanted to we all know they could. But they're building a restaurant there because they're going to take advantage of the fact that there is not a level playing field. This is a reality. As long as the entire province does not have a total smoking ban Winnipeg and the businesses around this city will prosper and the businesses maybe not in downtown Winnipeg or the near centre of the City but on the periphery of the City will suffer, and they will continue to suffer.

I can't support this Mr. Speaker based on these reasons. I definitely can support the motion coming forward from Motion No. 3, Councillor Gerbasi. To me it was quite reasonable based on even the explanation we got from the Chair of my committee two days ago, it seemed quite reasonable. I have to support those arguments.
The amendments brought forward by yourself Mr. Speaker regarding the Casinos and of course my amendment I will be supporting that.

(3:02)

I've made it very clear Mr. Speaker my concerns about where and how far this is going to go. That we as a society have to respect people's spaces and I agree with what Councillor Vandal's argument was earlier that rights are fine but they cannot impinge on others rights. But I believe that there has to be a balance here and I think we're heading down a path I fear that will go even further. Where government will intrude even further into the lives of people. I'll just pick up on here one of the comments from Councillor Gerbasi's e-mail, some would argue that we should go further and perhaps we will down the road. It is a policy decision to go as far as we have but not to go further into area of private space such as people's homes and cars. These are also less clearly enforceable. There's already talk of that Mr. Speaker. We have a federal government department that issued a report talking about banning it in people's homes. Where do we end, where do we end this debate? How far do we go when it comes to enforcing what is considered the collective good over individual rights and liberties. I believe Mr. Speaker there has to be a balance when it comes to those two things. And any society that's been shown in the past that leans heavily towards the so-called collective rights of society and limits and restricts and undermines the individual shall surely fail.

Mr. Speaker, I cannot support the existing proposal before us. I believe we should do this as an entire province so there's a level playing field. I would like to conclude my words on that.

Mr. Deputy Speaker: Thank you. No further speakers. Look at this. Who was first? All three went up at the same time. Councillor Steeves followed by Councillor De Smedt and Councillor Steek and Councillor Lubosch.

Councillor Steeves.

Councillor Steeves: Thank you Mr. Speaker. I rise on what I feel is a very very difficult issue and it's been a very very long road on this matter. I've struggled with this one personally and I can tell you why.

It came to light for me at least with the comments that my friend Councillor Smith from Daniel McIntyre when he was stating that he felt that this decision was made or could have been made last year and that he congratulated the Executive Policy Committee "for finally seeing the light". I think his position was that he was somewhat befuddled with the reticence that existed on behalf of some of us on Council with respect to this issue.

I guess in answer to that what I would say Mr. Speaker, is that reticence exists principally because people in Winnipeg and in Manitoba have always and forever had the right to smoke in the facilities they

have the right to smoke in today. The fact of the matter is, anytime that we are taking away freedoms of human beings in our municipality to do anything, regardless of whether we wind up doing it or not, it's my position at least, these things should never be done lightly. I'd like to think that this Council is not going to make this decision lightly today. I would like to think that we've gone through a process, I would indicate to folks we have not made this decision very very lightly.

When we're talking about an issue such as second hand smoke Mr. Speaker I think it becomes a bit more complicated because as my friend Councillor Vandal did state and quite rightly I think, that second hand smoke does in fact, is a freedom that generates a harm to other people. I can say categorically that based on the research that I've heard and the things that have been quoted to me by various people, I have come to the conclusion at least as a decision-maker in this community that second hand smoke is harmful. I think that's kind of beyond the scope of this debate and I think that's something that we have to accept.

As a business person in a prior life I'm deeply concerned about how this will effect our business community if it does in fact pass today.

Being sort of sympathetic to the business point of view doesn't end the matter of frankly make it any easier. I have had occasion over the course of the last few weeks to meet with various hoteliers and bar owners in both my constituency and outside. It's my considered opinion that all of these folks are genuinely concerned for their businesses. All of these people do feel that they're going to suffer at least somewhat financially because of the decision that will likely be made today that we'll be banning smoking in bars. That is the conclusion I've come to.

It becomes more complicated though and I extend my discussions to the restaurateurs that represent my ward that are in my ward and I've taken the time to meet with them as well. The message I'm receiving from them is that to take the by-law the extra step in fact would be beneficial in their eyes and would level the playing field out and give them a better chance of success and take away some of what they perceive as disadvantages over the course of the last year. It becomes complicated even from the very narrow private enterprise perspective.

There is no doubt in my mind Mr. Speaker that the people I represent in St. Vital are on balance in favour of a total ban. There are certainly detractors. There are certainly folks who would probably tell me not to support this ban. But my impression frankly is that the majority of people do support the idea that we would move to a total ban.

I have hung back on this issue because I've been struggling with it. The fact of the matter is as it exists right now it does seem to me that the current by-law that we have in place does present certain problems. There are some real challenges that existed over the course of the last year. Not the least of which is the fact that some restaurants have chosen to limit their clientele over 18 places that formerly were completely appropriate for all the young people to attend are now restricted. I do recall we had an environmental program here with school kids from around the City, we took them all out to lunch after and went to a local restaurant just around the block right after we passed the current smoking by-law only to be told that these children could not attend inside this restaurant because they were not 18.

I've stated that the restaurants are suffering. It's also my impression Mr. Speaker that over the course of the last year you have seen an increase in concentration in cigarette smoke accumulated in places where smoking is now allowed. I think a lot of people who otherwise would have smoked in other facilities and it would have dissipated the smoke over a larger commercial area, it is now more concentrated in areas and make it even more hazardous and more difficult for people in those circumstances to deal with those situations.

This problem probably could be addressed at least in part by air exchangers or something that type of technology. My concern in that area is that this would be in my estimation a bit unfair to organizations or corporations that are more able to foot the cost of those probably very extensive upgrades to their facilities.

With respect to the motions in place. With respect to Motions 6 and 3 which I guess are at opposite ends of the same issue. My position will be that although I'm not so sure that we have a great consensus from our stakeholders in the community on this issue because it wasn't on the table and probably should have been on the table at a lot earlier stage.

I guess I have to take a bit of a flier on this and state that it's probably my impression that it is the most fair if it is banned everywhere at this stage.

(3:10)

I'm a little concerned that if we do state as many have stated prior to me, if we do allow it in certain places and not allow it in most bars and most places there is room and capacity for all sorts of shenanigans that we are now living through under the current by-law to continue happening, be it through bogus socials and the like that will recur and recur and recur.

I will be supporting the motion that does not exempt anybody in terms of private functions.

I completely concur with the idea that casinos in the City of Winnipeg should not be allowed to offer to their patrons the option of smoking anywhere in their facility. I respect Councillor Eadie in his motion that he's brought forward, however having heard the Mayor and after having heard the Premier on the radio this morning stating that he would comply with our by-law if it was in fact passed. I'm prepared to take him at his word, I'm prepared to trust him on that issue. I have no reason not to. If for some reason the Province decides not to follow through on that commitment, I would suggest that it be brought back to this chamber to be dealt with in a more fair way. But for the time being I'm prepared to accept the Premier at his word on that issue as I have no reason not to.

With respect to the EPC motions, I have no difficulty with the tobacconist motion, that seems perfectly reasonable to me.

With respect to the motion of July 1, I'm comfortable with that, in fact I would probably have been more comfortable in giving the enterprise owners more time to adjust to the new regulation. Having sensed the mood, having sensed where this issue is going my impression is that July 1 is what is on the table as opposed to May 1, I think that's important, and I am prepared to accept that.

In short Mr. Speaker, although there's no basis to probably make a decision on but I would state that it's my impression that this issue has been at the City of Winnipeg for a very very long time. It does seem to be one of those issues a watershed issue that is supported by most of the population in the City of Winnipeg. This does by my political sense seem to be something the citizens of this city do want to see happen. I think when you get issues this big that are this interesting to people that people get this involved with I think it's folly sometimes to stand in the way of the general will of the people. I don't disassociate myself with the general will of the people, I only look to sort of temper the movement and I think moving the deadline back is as emphasis of one of those issues.

To conclude Mr. Speaker, we do have the benefit of being able to look back on a lot of things and steps we've taken in this area in the past. It seems reasonable to me now to look back and think that people can't smoke on airplanes. It seems reasonable to me to look back and think that people cannot smoke in movie theatres. And it seems reasonable to me to look back and think that it's not appropriate for people to smoke in this Council Chamber. I am hopeful that we will look back and I'm sure we will look back in due course at bars and say it's reasonable that people not be allowed to

smoke. I will be supporting this motion Mr. Speaker.

Mr. Deputy Speaker: Thank you. Councillor De Smedt.

(Councillor O'Shaughnessy in the Chair)

Councillor De Smedt: Thank you Mr. Speaker. Talk about Hobson's Choice. We've gone over this issue as many others have stated here for over two years now.

I'm in favour of a smoking ban in public places. Clearly that was the essence of where we started at. But I'm also in favour of some of the motions that we have in front of us because I do think there is a legitimate balance between the private right and the right of public spaces.

Let me just comment on a few issues respecting our famous casinos in the City of Winnipeg. I applaud to hear the fact that the Premier is going to commit to follow our by-law. That's a political statement made in the generosity of some free air time and I presume he's serious, but whether he'll be able to follow through on it is uncertain.

Here's the position that I really had been taking for over a year right now. When I thought the City had been following some principled leadership on this issue to very quickly have leapt into some zealotry about how we can quickly now bring in a total smoking ban that included all the aspects and we're at this point in time today. I call it going from zeal about the issue to zealotry because we don't seem to have any opportunity to look at the other side of the issue.

We certainly don't have any opportunity to do so because we get motions introduced right up to the very last minute of how to make this by-law work. Therein is the reason at the very outset of this debate today, I would ask that we'd at least take another 30 days and have a problem council consultation amongst ourselves to decide how we would proceed.

The basis of that is the position I've been on for over a year is that this should be a provincial-wide issue. Not that it's going to be easy for the Province to incorporate a province-wide ban in some very very tiny hamlets in which there is only one gas/bar/restaurant for the community to meet. And how do you incorporate a smoking ban in the middle of January when everybody is used to gathering on Thursday morning for a get together. I don't know how'd you do that. Part of it is that we're not going to be having smoking police in every gas station throughout the Province of Manitoba. We're going to be depending on moral swaysion for people to buy into this. By and large people would be able to buy in.

There's a principle reason why the Province would incorporate a province-wide ban and it's workplace safety. It's the whole rationale of why we came to this in the first place. It's a safety issue. A health hazard both for the immediate smoker and side stream effects for those who are non-participative in the smoking opportunity.

And if it truly is a workplace safety issue how can the Province not in a very quick timeframe considering the public persuasion that has been taking place throughout the country, throughout this city, throughout this province during the last 18 to 24 months. Highlighted by some degree by City of Winnipeg taking the lead two years ago introducing the by-law. City of Brandon incorporating their by-law and of course other jurisdictions reporting across the country and the Mrs. Crowe issue in Ottawa.

In fact I think there is overwhelming evidence that the health care lobby who rightfully were addressing the issue to us and others would have some tremendous impact and positive impact with the Provincial Health authorities and the workplace safety authorities.

This is a workplace safety issue, not our jurisdiction. And we're coming around it by introducing a by-law to tell folks no matter where you are in a public/private space in this City of Winnipeg excluding your home and your hotel room, that you

can't smoke. Therein is where I think this particular by-law comes apart.

(3:20)

I think it's the over reaching effect of some regulatory zeal to incorporate everything into it. It's for that reason that we should have had a little bit more debate, a little bit more consultation with ourselves and with the Province to join with them in a partnership to bring forth a proper workplace safety regulation. Because I do support a smoking ban. I've been a long time supporter as being a member of the Heart and Stroke Foundation of Manitoba, on working issues on no smoking.

I just can't square the circle for myself on over reaching and imposing on the rights of others. And that's the issue.

When you looked at Motion No. 3 in which very quickly between yesterday and this morning we have a motion to now eliminate private functions on the basis that we really have to take care of our community centres and not allow some sort of deviation to occur in that particular locale which makes a mockery of the community centre with a daycare centre next door or with a single filtration system that gets contaminated etc., and the rightful arguments go on. There's a simple answer to that. Community centres are public spaces, we created them, we fund them. They should have been eliminated at the outset, they should not have been included to have an opportunity to even have a private function. That was easy. The rationale for including now private function is to get at the private sector. I regret that that is what is being seen by the private sector as and I don't think we have the right to do that.

It is a health issue. But if it is an over mounting health issue, if it's so persuasive, why isn't the Province and Health Canada but more importantly health is within the Provincial jurisdiction. Why doesn't the Province have that workplace safety ready to roll for us today? I know it might be a neat thing for the City of Winnipeg to do be seen taking the lead in a national perspective that we're going to be the healthiest city and on behalf of the health of our citizens we're going to do this regardless.

The fact of the matter is, that's a provincial responsibility and we're letting them off the hook folks. They're sitting over there off the hook. They have an all party agreement to have a get together. I don't put one ounce of faith in that coming to pass until after an election and then I'm going to be looking very carefully at what the weasel words are going to be within their legislation.

I hope I'm wrong. But I don't think I am. Otherwise think of this. The health care lobby and I've been part of this for a long time, has had no success at Health Canada and no success with the Provincial Government to introduce legislation workplace safety that side stream smoke is a hazard. That to me is a difficulty.

So where they have come to, to the weakest link in the jurisdictional process city councils, municipalities. We haven't got a single person on staff that has health science scholarship, not a single person to give us advice, to take us through the policy maze. It's easy to get all the submissions from the lobby's and I welcome a lot of it. But remember they have one aim in mind and their goal is to have a total ban. I applaud them for that, the process, the justification, the legal justification is wrong.

Regrettably there's going to be some elements I can't support. At the end of the day here I'll be supporting Motion No. 6, because that's a private sector intrusion. I'll be supporting Councillor Eadie's Motion No. 5, because I do think we should have some neat little words to try and see if we can get the Province on board. I heard the Mayor saying, we shouldn't do that, he's got legal advice that that not ought to be the case because it may set up a precedent for challenge. That's why I asked you guys to refer this, have a seminar. I'd like to hear these issues. It isn't good enough Mr. Mayor for me to come to this Council table to hear what you're saying. I'll support Motion No. 4, I won't support

Motion No. 3, and on point of principle let it be heard clearly for the record and to all my friends, I'm for a total smoking ban but not what we have here today. I will not be able to support them.

Mr. Speaker: Thank you. Councillor Steek.

Councillor Steek: Thank you Mr. Speaker. There's an old adage that says, it's not the destination it's the journey. I will tell you that after two terms on this Council the journey to this policy decision today is the most extraordinary one that I've ever been on. It frankly is about the destination today and we're there. We have the opportunity to make critical decision.

I'm going to speak quickly just to the motions. Motions 4 and 6 as far as I'm concerned are nothing but time delays. I'm dismayed with Motion No. 5, the mover is certainly familiar with jurisdiction and there's no question that this motion which references casinos which are clearly outside our jurisdiction will bring it into disrefuted challenge.

With reference to Motion No. 3 brought forward by Councillor Gerbasi, she was good enough to meet with Councillor Lubosch, Councillor Vandal, myself and Legal Services yesterday. The initial condition was fraught with hazard. For those that think that this is legislation on the fly here, one of the prerogatives politicians is to make change that is based on sound information. The fact remains is what this has done is cleaned up this by-law so it is without exception.

I do want to speak to a couple of issues that I think are absolutely critical. I am very concerned that there's some suggestion here that we should be waiting for the Province. I'm going to speak to both the comments from the Mayor and from Councillor De Smedt.

We have absolutely no guarantee of any kind that this province will institute a provincial-wide smoking ban. They are at the spot they are because of the leadership of this city. With all due respect this has been about strong leadership coming from this city.

We have had this issue in front of us for the better part of three years. The journey here has been arduous and I respect both Councillors Lubosch and De Smedt who when the initial motion came up here in January of last year did not support it on a matter of principle. Those of us who did support it and said it was watered down were fraught with hazard, I think have been proven right, you only have to read the administrative report.

(3:26)

Well we're at D Day today Mr. Speaker.

This is first and foremost a safety issue. It's a health issue. The evidence is empirical. There isn't anybody in this chamber Mr. Speaker regardless of where they stand on the atrocities of war that aren't dismayed at the thought of the carnage and the loss of life. And yet we know that 250 Manitobans die annually from second hand smoke if not more. How can you possibly want to delay the smoking ban in public places knowing full well that you're putting people at risk. Maybe you definitely are.

For those of us who had the opportunity to meet with Heather Crowe at age 57 after 40 years in the hospitality industry she has been given a death certificate. Ms Crowe could have been somebody's mother here, she could have been somebody's daughter.

I ask you to step back for one moment and think about the impact that that one individual has had. We remember the impact of Terry Fox on this country. I would suggest that Ms Crowe's personal crusade is comparable to that.

I'm from the business community. Every business person has a right to make a living and make a handsome living but not to the detriment of employees and to the detriment of patrons. We know full well that that's the situation we're facing here.

Any further delay in this thing came into being last year in January, the industry

has had ample notification that it was coming forward. With all due respect to some delegations who said there was never any indication that there would be a total ban, they must have been in different meetings that I was in. How many times did we hear that there would be a total ban? Continuously.

So we're in a unique situation today. I've heard about the fact with all due respect to my colleague from St. Charles, that we're the weakest link in government. I personally don't buy that. I happen to think that we're leading on this issue. We're going to push the Province to a decision, whether they like it or not. I believe that federally municipalities have been driving this thing. I believe that in the very foreseeable future we'll see strong legislation all provinces across the country whether they want to go there or not. We're the leaders on this. We're not followers and we're not weak.

In closing let me say this. There have been some extraordinary heroes involved in this particular policy journey. Many of them were in the audience today and I want to pay particular respect to them. Dr. Taylor is not here, his assistant Nicholas Dobinsky is here. They have been at every meeting. They have seen this thing go so far sideways nobody believed it was going to be happening until into the distant future. Murray Gibson. Dr. Harlos. Numerous others have come out repetitively on every issue and sat through these committee meetings.

Finally I'd like to cite specially the Yanofsky Family. Two young students and their parents who I think have been the essence of good citizenship.

Finally I want to acknowledge Councillor Lubosch. I don't think anyone has any comprehension of the determination and the commitment it takes to drive a social policy of this nature. I believe it's noted by Councillor Vandal, this will be the most significant social policy that this Council will pass. I have no problem in saying that.

Councillor Vandal noted the incredible leadership from Councillor Lubosch, Councillor Lubosch has been ridiculed in the halls here in many institutions in the media, he's been vilified. He's been unswerving in his commitment. Very frankly his leadership on this has been without exception and I believe that when all of us are gone from this Council that this one particular policy will not only be remembered by all of us but by the citizens of this province because of the fact that without equivocation over a period of time it will plain and simple save lives. How do you put a value on one life. Business will reconfigure and adjust.

This is a safety measure, it's no different than when we introduced seatbelts. I hear there's a great concern about the idea of enforcement. Mr. Speaker today there's 92% compliance with seatbelt legislation. It will never be a hundred percent, anymore than it will ever be a hundred percent on the prohibition of smoking in public places. But the fact remains the policy is there, it's going to be administered by the public as a whole and respected by the public as a whole.

Dr. Harlos brought up an interesting statistic when she said a city who formerly had about three out of four people not smoking now may be as high as four out of five.

Fact remains is this is the right thing to be doing. To all of you who have come a long way on this particular issue over the span of the last year, thank you. I would urge you for those of you who are not supportive of this, to give this some serious thought, 250 people minimum annually. Let that guide your conscience. Thank you.

Mr. Speaker: Thank you. Councillor Lubosch.

Councillor Lubosch: Thank you Mr. Speaker. Thank you Councillor Steek for those very kind and generous words of praise.

I've never smoked in my life and look forward to a time when the world will look back in amazement and disgust to a practice so unnatural and offensive. These words are the immortal words of

George Bernard Shaw as they were printed in the New York Herald Tribune back on April 14, 1946, over a half century ago. That's about how long it feels sometimes since our city council began to discuss our regulation our smoking by-law regulation.

It's interesting to note that our former public health officer Dr. Margaret Fast who certainly is a medical scholar and a well-known personality both in medicine and the field of public health was the person who first brought to the attention of the Protection and Community Services Committee back on June 11, 1999, the need for our city to review our current smoking by-law.

Since then the debate has shifted away from an attention to blend in smoking and non-smoking sections in various public establishments and places with a much stronger intention to actually eliminate smoke from these places with a focus that ultimately places the priority on the health, on both people who work in these environments and people who visit them.

To eliminate smoke in public places is ultimately the only way to ensure that everybody's protected equally by the law. And science has provided this refrain for not just months or years but in fact decades.

(3:35)

The amendment Motion No. 3 which also bans smoking at private social functions is absolutely of acceptable and complimentary to the intent of our by-law because although a private function may be "private" it's still being held in a public place, there are still people working at these private functions, whether they're working in a bar or whether they're serving people or whether they're cleaning up in the establishment afterwards. Moreover when we apply it to our community centres we know that on a Friday or a Saturday or a Thursday any night you choose, a bingo or social event may be held there only to have young children and families using the same facility hours later. We've been told by experts in the field in science and technology that the residue from smoking whether it's the smoke or the particulate from the smoke remains in the room and presents a cancer causing hazard to people who are also sharing that space.

Public education enforcement is clearly the way to go and we've learned that experience from other jurisdictions. Whether you look at Victoria, Ottawa, Windsor, Kitchener, Waterloo, public education and enforcement where required have gone hand in hand. It's important that we both let people know and also let them know that we mean business. That this won't be a law to be flouted. That there won't be loopholes in the law. That it won't be a law that is ambiguous and that it's applied equally to everybody.

The Province certainly does have responsibility for workplace, health and safety, and I don't think anybody in this room would deny that. The fact is, smoking is costing our province every taxpayer, $250 million a year in treating smoking related illnesses. It's ironic that the Provincial Casinos that are currently still the bastions of smoke and soon to be non-smoking are raising funds for exactly the cause, the root cause of the problem that we are seeking to eliminate.
The City of Winnipeg is attempting like other major cities in Canada to expand its powers of jurisdiction. And with that comes responsibility. That responsibility also extends to health and welfare of our citizens.

We've seen leadership by example where in this way in our very own city. I believe it was in February of 2001 that Cheryl Mazer the General Manager of Portage Place decided unilaterally to ban smoking in Portage Place, in the Food Court area. The other shopping malls soon followed on her heels and from what I understand not only are people healthier and happier but the value of the retail areas, the square footage earnings are higher and businesses are better and more businesses are hoping to open up in these food courts. The same can happen here if the City leads, I believe that other jurisdictions both provincial and

municipal will follow suit in Manitoba as well.

I want to reference some of the people that have been involved in this issue. I certainly appreciate the compliments that have been generously bestowed on the work that I've done with many of you on Council. But there are so many people that have worked not behind the scenes just but also on the front lines. They're the public health advocates Dr. Mark Taylor, Dr. Margaret Fast, Dr. Sandy Harlos, Mr. Dobinsky, who was part of the MMA team. And of course Dr. Sandy Harlos with the Winnipeg Regional Health Authority. There were the youth that got involved. Stephanie Blackie I notice her mother Connie is here today. Aaron and Evelyn Yanofsky and the Yanofsky Family, Loren Coral who is working with them. Murray Gibson from MANTRA. There's Jerry and Barbara St. Laurent. Jerry St. Laurent was instrumental in lobbying hospitals to eliminate smoking from in front of hospital lobbies, entranceways because his wife is suffering from cancer and can't be exposed to smoke when she makes her trips to the hospital which can be weekly. Of course there's Theresa Ducharme whose enthusiasm for life and social activism is unequalled by anybody in Winnipeg.

Councillors Steek and Smith, you've been with me from the very beginning, and I certainly appreciate your support both on the front lines and behind the scenes. Councillor Vandal you were the Chair of Protection and Community Services when this audicy began and Councillor Gerbasi you've demonstrated real leadership when the baton was handed to you, and you've been unwavering in your commitment as have the rest of your committee.

Mayor Glen Murray, I'm proud to call you a friend and a colleague. With your leadership and your consensus building abilities on EPC you've in a very short time brought together a coalition of support that will finally see that we have a lasting public health legacy with respect to smoking in our city and I know that when you were on council long before you even may have had aspirations of being the Mayor of our city, you were very instrumental in bringing forward smoking regulations, and that this issue is one that you've been working on and thinking about and I'm really pleased that you and I are on Council at the same time to be able to realize this coming to a final and very wonderful conclusion.

There's our Community Services staff, Ursula Stelman our Director. Kelly Goldstrand and Gwen Howe who've done an awful lot of research and report writing. They've literally scoured the globe for research and information. Peter Paris who provided by-law expertise and Brian Revit, and Chuck Surgeoner from Public Works who was our technical advisor with respect to heating ventilation, air conditioning systems and of course of legal staff. Mr. Doug Buhr and his staff who craft our laws.

I also want to acknowledge the other advocates who advocated for both business and now more recently for public health. Mr. Leo Ledohowski, the CEO of Canad Inns, probably Canada's most successful hotel chain is in my mind on the right track. He's very concerned about the health of his employees and he's asking us to participate in helping his employees quit smoking. Mr. Jim Baker from the Hotel Association has been a strong advocate for education and smoking cessation. Mr. David Wolinsky from Salisbury House and his business group have been a strong support. Mr. Bob Stephens who I've grown to both admire and like. We've had a tremendous opportunity both learning and debating this issue in public and in private and I'm proud to call him a friend. He's brought many important incites to this debate about fairness and equity and the importance of healthy people and healthy business environments. It's no surprise to me that he owned the very first non-smoking restaurant in Winnipeg, Suzie Q's on Portage Avenue. And has long been an advocate of both healthy environments, good burgers and great milkshakes. He's a gentleman, it's been a privilege to get to know him, and he serves his membership exceedingly well and they should be very proud of him.

Finally Mr. Speaker I want to pay tribute to Heather Crowe who dropped in our city on a minus 40 below afternoon and openingly shared her experience and her life with us. She was a modest, soft spoken person and I know when she was received by the Mayor and some of us in the Mayor's Office, she showed us that we didn't have to afraid of this change.

(3:42)

She's a champion for humanity and health and I think she served to inspire us and give us the courage and resolve to carry on and improve the standard of health for thousands and thousands of Winnipeggers.

Finally the motions Mr. Speaker. I'll be supporting Motion No. 3, it goes without saying. That private social functions in public places should be no smoking environments. I won't be supporting Motion No. 4, delaying is unacceptable. With all due respect to the mover of Motion No. 5, I don't believe it's within our jurisdiction and the Premier has committed publicly to banning smoking in casinos.

I want to touch very briefly on the intent of Motion No. 6 to protect personal rights. Although I'm not a trained legal expert I have reviewed the Canadian Charter of Rights and Freedoms. It's interesting to note that Canada's founded upon the principles that recognizes supremacy of God and the rule of law. And Schedule B in the Constitution Act of 1982, Part One, Article Two, highlights the freedoms that we have in this country Mr. Speaker. The freedom of (inaudible) religion, the freedom of thought belief, opinion and expression, including the freedom of expression other than media communication. The freedom of peaceful assembly and the freedom of association. No language in this entire document expresses a freedom to smoke in public places.

Furthermore, Article 7 states that everyone has the right to life, liberty and security of the person, not to be deprived there except in accordance with the principles of fundamental justice. Ultimately I don't believe and I don't think anybody here does that the right to smoke supersedes the right to life.

Finally I'll leave you with these words Mr. Speaker. Health and good estate of body are above all good. This is found in a book that most of us know. I urge all members to support health today, good health will ultimately lead the prosperity of our city. Thank you.

Mr. Speaker: Councillor Pagtakhan.

Councillor Pagtakhan: Thank you Mr. Speaker. I'll be very very brief.

In the short time I've been as a new councillor I've had the opportunity to talk with many students, parents, school/parent councils, members of community clubs, churches, neighbourhood organizations and many many others who have voiced to me their support for a total smoking ban.

Furthermore, I personally have not received any opposition from some of Winnipeg's most prominent and finest nightclubs right here in Point Douglas' Exchange District. So it's abundantly clear to me that the concern for the health of workers in workplaces and public spaces is widely supported by the public and that Winnipeg is ready for a total smoking ban.
Indeed there is no question that change and adjustment is never easy but the reality of the matter is Mr. Speaker as eloquently pointed out by one of the delegations this morning in opposition to this by-law, "we will survive a total ban". Indeed we will.

I do want to take this time to thank His Worship Glen Murray for his leadership on this issue, and Council's most pronounced champion on this issue for a total smoking ban, Councillor Mark Lubosch.

I do also want to thank Councillor Jenny Gerbasi, Chairperson of Protection and Community Services for her hard work on this issue and for helping me as a new councillor with many of the issues regarding this issue.

All in all I'm proud to stand among the ranks of Councillors who are standing behind this progressive and timely by-law. The time is now for a total ban Mr. Speaker. I will be supporting this by-law and its accompanying amendment. Thank you.

Mr. Speaker: Thank you. Councillor Eadie.

Councillor Eadie: Mr. Speaker, two years ago when we were debating what is now the smoking regulation by-law I indicated then that and I believe very strongly that this is not an issue for municipal government. An issue of health dealing with health and workplace safety is really a provincial issue. I haven't deviated from that point of view. Today I still believe that by and large this is an issue that belongs squarely in the lap of the Government of Manitoba. They do have ultimate authority for health and for workplace safety which we do not have. It seems to me though that there doesn't seem to be much support outside of these chambers for any sort of activity to lobby the Province, or lobby all MLAs for that matter to get with the program and enact province-wide legislation which would make this kind of regulation effective no matter where you are in Manitoba.

Currently two out of 200 municipalities in the Province have some form of a smoking ban. This city and Brandon. Roblin couldn't get one passed their council there was no public support. Passing all the by-laws in the world won't make a bit of difference today to Headingley or to Selkirk or to East St. Paul or West St. Paul because we don't legislate beyond our own borders.

It's evident to me that some of the proponents of this really don't think this is an issue that the issue of smoking related to health and workplace safety is an issue outside of Winnipeg. Two of the doctors who were here today don't believe it's a Manitoba-wide issue. Last summer when the Provincial Government had Bill 37 on its agenda, what was it called, the Non-smokers Health Protection Amendment Act. There were numerous delegations that appeared on the Law Amendments Committee on the first of August to speak usually in support of it. The two doctors who have been here numerous times weren't there.

One of the doctors came to EPC last week and spoke glowingly in support of the clause we have in front of us and when I asked what advice have you been giving the Minister of Health about province-wide, well none at all. Haven't been there, haven't talked to him. Not my job. Not my job to go and lobby the Provincial Government. The other doctor hasn't been there at all. Been here a lot but never been over to the Province. Never been over to lobby MLAs. I give credit to Murray Gibson who I don't think was here today but did appear at Executive Committee last week, the MANTRA Group.

Mr. Gibson spoke to Executive Committee last week and basically said much the same thing that he told the Legislature last August. Mr. Gibson is committed to lobbying the Legislature really to get to work to enact province-wide legislation. He told the Legislature that last summer, I had it all on the screen here at the time he was talking to Executive Committee. Wonderful thing these computers when you can bring up other pages and see what's been said. Some of the others who were here today were also at the Leg. last summer to speak about Bill 37. But others weren't. Because it doesn't appear, it appears obvious to me that this is only a concern in Winnipeg for them and it's not a concern throughout the Province of Manitoba.

There was a Private Members Bill at the last session of the Legislature which would have had the effect of implementing a province-wide smoking ban in all indoor public places. It wasn't allowed to come to a vote before the session was prorogued. People should be outraged if they feel strongly about this. People should be phoning their MLA saying, why didn't you allow this to come to a vote last August. People should be wondering on the 26 of March, 2003 why the Legislature isn't in session today as most of them are in Canada save Ontario.

If this is important now and if all parties over there are supporting it, why isn't the Legislature sitting today so their feet can be put to the fire and we'll see what support is there.

(3:50)

Who's phoning the Legislature today? How many of the people who've been here many times have been phoning their MLAs to get back to work and to make a provincial statement on non-smoking legislation or smoking ban law that would be applicable no matter where you are in the Province rather than just in two out of 200 municipalities? I bet you not very many.

Two years ago when we debated the current by-law Mr. Speaker and I think I said this at the time during the debate, I wasn't getting a lot of warm and fuzzy support from my constituency for an all out ban. It was not a very easy sell in the area I represent. I listened very closely to the people who called and I read what they wrote to me, there was not a lot of support at that time for an all out ban. There was much more general support for the current legislation that we have in place and for some people they didn't want any legislation at all. Others thought it would make more sense to have this done on a province-wide basis and I agree with that.

However Mr. Speaker in 2001 when we debated the current smoking regulation by-law I supported it, not that I was an enthusiastic supporter, not that I believe in smoking which I do not, but I felt in the absence of any provincial action and in the absence of any effective lobbying of MLAs that the by-law that we currently have was a reasonable compromise and there was support in my constituency at the time for the by-law we have today.

Last fall going through my riding during the general election and having had our by-law in place for about 10 months at this time I found from people that they liked the effects of our current by-law so much that they were now much more agreeable to a much broader ban. People who had phoned me or had written to me and indicated in 2001 that they didn't like the idea at all now were a lot more comfortable with a broader ban. Mr. Speaker since that time and as this issue has been reviewed by the Standing Committee the support has grown.

There's still a lot of people who think it should be a province-wide ban and I hope they're calling their MLAs today to wonder why they aren't at work so that could happen. But Mr. Speaker more people now are supportive, I'm talking about my ward, more people today are supportive of where we're heading than where they were in 2001. I'm not in the habit of trying to impose lifestyle changes on people as a legislator and part of this is a lifestyle issue as well as a health issue. My constituents generally today are indicating that they are supportive of where this particular clause is heading. I supported that at Executive Committee last week. I'm supporting the clause we have in front of us today from the Standing Committee with a couple of the changes that had been suggested by the Executive Policy Committee. I won't speak to the other motions Mr. Speaker I'll close debate on mine at the appropriate time.

I say to people, again if you believe that this is a major issue of health and workplace safety, then get on the phone to your member of the Legislature if you can find him or her, ask them why they aren't sitting today and why aren't they dealing with that Private Members Bill.

The Premier apparently indicated on the radio that an all party task force is going to report in June. Mr. Speaker the Legislature may be dissolved in June in which case there is no all party task force. Everything ends with a dissolution. Maybe the Premier's hinted that there isn't going to be an election until after June I don't know. But currently they're in an election mode provincially. Now's a very good time for folks if they think that this is a major issue Manitoba-wide to find out where your MLA is and get him or her back to work. Phone the Premier's Office and ask why isn't the Legislature sitting today to deal with this issue which we think is a broad based Manitoba

health and workplace safety issue which municipal governments have no legislative authority in which to intervene. That would really be a sign of affective lobbying. Maybe the doctors and others who today can't seem to find the Legislature, it's at the corner of Broadway and Osborne, might be able to find their way down there some day if the House ever sits and confront their MLAs and ask government or ask all MLAs where is the Bill which would have the effect of implementing a province-wide smoking ban in indoor public places. When are you bringing it to the floor of the House for debate and vote. Will it happen before the House is dissolved for an election or is it going to wait for some after an election and depending on the generosity of a future government.

Those are the questions people ought to be asking if they think this is an important issue. It probably is but it certainly isn't an important issue for one municipal government out of 200, or two out of 200 when the whole remainder of Manitoba is outside the ambit of what this proposed by-law is going to cover.

I haven't changed my point of view that I believe strongly that this really is a province-wide legislation that should be enacted by the Legislative Assembly. I recognize that we do have some rights as a municipal government to do what we're doing. I think it would be a whole lot more effective and a whole lot more credible if this was enacted by the Legislature so that no matter where you travel in this province the rules will be the same.

I will support the clause Mr. Speaker and at a later moment I will close debate on my proposed amendment.

Mr. Speaker: Thank you. Councillor Clement.

Councillor Clement: Thank you Mr. Speaker. I think the first thing I'd like to say to Councillor Eadie is ditto.

I want to state from the beginning that while my comments are probably going to be a little less consolatory than a few other peoples that I'm a person who keeps his word and I proved it in this chamber for 20 years. I told a lot of people and I told them in the last election campaign and I told them before that, I told them before this came here last year that I supported a smoking ban and I do.

There are some problems however with this document. As weak as I still consider it to be I'm going to support it like I supported the one last year because I thought it was an important move, and I think this is an important move but I still don't think it's the last one. I just don't, I don't believe it.

The smoking ban clearly has support, it has support in my constituency. My own informal little polling is about 7 - 3, or 70% in favour.

By the way these types of movements have been going on for some time. I know that Councillor Lubosch has worked very hard on this specific issue. I know how much fun it can be because I was the President of Winnipeg Enterprises Mr. Speaker in 1993 when we banned smoking in the Winnipeg Arena. I know how many phone calls I got and I know that they weren't a lot of fun at the time. Of course it was subsequently banned in Winnipeg Stadium too. So I understand those kinds of things.

To some of the people that are maybe still here or watching in TV land out there that Councillor Eadie was talking about, the name of the MLA who put that Members Bill forward is Denis Rocan, his phone number is in the book. He'd love to get your support. I'm really happy that after today that those people are going to have all kinds of time on their hand to go to the Legislature where they belonged in the first place.

Councillor De Smedt put a few words together that I thought were fairly carefully crafted and I think they were bang on.

(4:00)

There are private rights Mr. Speaker, and there are public rights. What did he mean by that? Well I think what he meant by that is that when you're 18 and

over that you have the ability to think for yourself. While this by-law is about health and that's what the Province is supposed to be dealing with amongst other things, the fact of the matter is there will be some people hurt by it. That's a fact. There will be some hotels that close. There will be I'm telling you there will be. They won't be in my constituency, most of the ones that are going to be in trouble are very close to this building frankly.

There will be some small restaurants probably with older clientele that will probably have some problems. Whatever comes out of that comes out of that. That's happened in other cities too, and there's been other places open and these things blend with time and they're (inaudible) to some degree.

The fact of the matter is this. And we had these discussions and I'm glad somebody raised the name of Mr. Surgeoner there because we had people here who had numbers that they could prove that they had filtration units that took the carcinogens from second hand smoke out of the air to something in the neighbourhood of 96.4%.

We know for a fact that nobody in this room is made to walk into a pub or any establishment where smoking is allowed. Nobody makes you. Nobody does that. You know what else? Nobody absolutely nobody is going to stop you from going over and registering a business in the Wordsworth Building and opening up a pub or a restaurant and having no smoking. But nobody's done it and that's an interesting thing. Because frankly most of the people that I talked to in my constituency who want a full smoking ban by the way, don't go to the pubs for the most part or the types of restaurants that have smoking, they just don't. It's just a fact. Sure some of them would like to go, I'm not stupid.

You know what? Market drives these things Mr. Speaker. People like McDonald's and Wendy's and pick one, don't open restaurants until they've done the market studies that prove that they're going to sell hamburgers or hot dogs or whatever it is that they market. We've probably got the classiest or one of the classiest entrepreneurs in the land in our city who owns a number of hotels who was here today as a matter of fact. But even as smart as he is he hasn't opened an establishment that doesn't allow smoking because he's done the numbers. He knows what will happen and it won't be open very long.

This is not all wonderful, but I'd like to turn my attention to one of my friends at the Province. I call him my friend because anybody in politics is my friend because I understand what you give up to become a member of our society irrespective of which level of the food chain that you're at.

The fact of the matter is I think he's misread this. The fact of the matter is, it's not good enough to go on CJOB and tell the world that while I think we've done it in our restaurant in the Legislature so therefore we're going to do it over here. Hell he's got enough people up there that write letters for him all the time, all he had to do was write a letter send it over here and say, gees, I'm on board guys. But he didn't do that that's why I'm supporting Motion No. 5. I understand what it means and what it says.

I also heard what the Mayor said. This by-law isn't here today yet. We aren't passing anything until the by-law comes. I'm not sure what date the by-law is going to get here but I'd bet a lot of money that my good friend at the Legislature won't be writing any letters before its time that the by-law comes here. I just don't buy it. It may be that the Casinos won't have smoking if we pass our by-law, it's possible. But it's not good enough to go on CJOB and say it. If it's the way you feel if it's the way it's going to be then you deal with it.

Councillor Eadie has already covered the ground that they had the ability to already deal with it. They could have dealt with it in 15 minutes frankly in the fall and they chose not to do it, and they chose to close the Legislature. They've chosen not to open it again. Well people are wondering what's going on with that, I don't know whether there's going to be an

election this spring or there's going to be one this fall I'm pretty sure there's going to be one this year. The fact of the matter is, he doesn't want to deal with this issue until that's over with. That's called politics. That's what it is. That's why I'm voting for this today, it's called politics. I wasn't a politician when I got here Mr. Speaker, I became one because my constituents turned me into one. It's just the way it is. There's no point in denying it. If you're brand new you're going to go out, you're going to get lobbied like crazy over the next couple of years and ultimately you're going to become a politician too Mike, that's what's going to happen to you. You either learn how to dance or you might as well go home because that's the way it is.

The trouble is, is that we wind up coming into these chambers, we get things put in front of us and there aren't any trees to hide behind in here you have to vote.

The fact of the matter is however, that all of the legislation isn't good, it's not always all well thought through and in some cases we don't have enough tools to do the job properly even though we want to. As an example, somebody made a comment earlier today about it was Councillor Smith, well what's changed, we could have done this last year. Not so. Absolutely not so. We didn't have the right last year to eliminate smoking in private clubs. That only happened in Bill 39 that was passed in the fall. Now it's interesting that the same government gave us the right to do that didn't deal with it's own private members bill or anything else associated with the issue.

I am concerned Mr. Speaker about certain things. I wish I was clairvoyant and I knew the answer to some of them. There are things we talk about things in here we've increased money to the arts by a huge amount this year. I'm not a patron but I've supported all of those things. My wife likes that kind of stuff.

Personally I'd rather spend an evening at the Downs. Well you know what? Assiniboia Downs only exists today Mr. Speaker because they've got 200 VLT's and they get 75% of the revenue from the Province for those VLT's. Without them the place closes. Do you know how many jobs that is Mr. Speaker? 3,000 jobs in this town, 3,000 that's just the Downs which is also one of our major tourist attractions.

Maybe nothing is going to happen. Maybe that's not going to affect a thing. I don't know whether it's going to or it's not. But I sure wish I knew the answer before I came in here and started talking about it. What's it going to do to our own budget? Don't be fooled by what it says in here, $137,000, it's not $137,000 because those same VLT's that we get a percentage of from the Provincial Government are going to drop somewhat, and everybody understands that. Nobody's saying that's a fallacy Mr. Speaker. I believe that it's going to cost us approximately a point of tax. Well goodness sakes, that's no big deal we can cover that off. Just ask all my friends who keep moving motions to add things back in all the time. Money is just hanging around on trees and flagpoles, right.

(4:08)

The bottom line is, is that and I would like to say this and I mean this sincerely. To the people particularly Councillor Lubosch who have worked hard on this, good for you. There's lots of issues that come through here from time to time that people have to work very hard on, and have stuck to it and have done a good job. The fact is, it's not complete, and we don't have enough legislative power to make it complete, I sure hope that some people were listening to Councillor Eadie when he was talking to them and that they start getting their tails over where they belong in the first place and deal with the people who haven't done anything and they're the people that want to go into an election campaign Mr. Speaker, and it's time we maybe had some policies for the public to pursue at the door with them.

Mr. Speaker: Thank you. Councillor Wyatt summing up on his amendment.

Councillor Wyatt: Thank you Mr. Speaker. After hearing the debate here

today it sounds clear that this matter will be passed in this council chamber.

Just to pick up on the exact amendment that I moved, seconded by Councillor De Smedt. Do we have the authority? By the sounds of it my learned colleague just indicated that yes we do have the authority to step in and on private clubs legislate with the by-law a smoking ban through Bill 39 the amendment to the City of Winnipeg Act, the Winnipeg Charter Act.

Question is always when you're dealing in laws is the authority yes but the legitimacy is the other question that I pose. To me I believe what we are doing is not legitimate. It is not legitimate because no one has to go as said earlier, no one has to go and join a private club if they don't want to, that's the very nature of it Mr. Speaker. It's private, and it has by-laws, and an organization, membership and a board of directors, an executive and a president. And if someone wants to be a member of that private club they can. If they choose to join and pay the fee and if the members of the private club allowed it and if they don't and it's not accepted, they don't decide to join the private club then clearly that is their personal choice. We're not infringing on people's rights here Mr. Speaker to have clean air.

I feel the private club restriction or being overlooked in this proposed ban is unfair. I feel the motion I presented is extremely fair. The concern that somehow it will create a loophole for everyone to exaggerate or take advantage of as has been pointed out quite clearly by Councillor Lazarenko that the existing Liquor Commission Act is very clear. Some may say that it's not being enforced, but I can assure you that with this they would enforce and they would enforce it to ensure that the rules including the rule of being able to become a member of a private club having to be referred to the next meeting of the board of the directors that these sorts of rules are followed. I believe that this is only fair.

As I mentioned earlier Mr. Speaker, the City of New York adopted this because they felt it was reasonable. Other jurisdictions have done that. From what I understand Ottawa is the same situation. I think it's fair, I think the idea of having a smoking ban in all public places is and having a level playing field is laudable. This is clearly what we're trying to do today. But as I've indicated before, my concerns is that we really have not achieved that level playing field as spoken earlier by others by the very fact that surrounding this city and potentially two massive casinos within our boundaries will not be subject to this. Even though the Premier has indicated that it's possible that this may go ahead I would suggest that we don't know that for sure and that's why I suggest voting in support of the other ones. I know I have to be speaking to this one Mr. Speaker. That's why I will support Motion Nos. 4 and 5. I encourage members to support Motion No. 6.

We have the authority yes to ban by the sounds of it and private clubs, but is it legitimate. I would suggest to you Mr. Speaker that it's not legitimate. And that we as a society have always respected private property rights such as private clubs. I would include that in there. By doing this we are setting a dangerous precedent which will come back to haunt us in the future as a society. Thank you.

Mr. Speaker: Thank you. Councillor Eadie summing up on Motion No. 5.

Councillor Eadie: Thank you Mr. Speaker. I'm going to be very brief but I have to be anyway.

Mr. Speaker first of all under the Charter it's not illegal to insert a clause like this into a by-law which would in effect would indicate that smoking within the Casinos is not permitted. There was a lot of chatter about jurisdiction during the debate Mr. Speaker.

I remind members of Council that the smoking regulation by-law which is currently in effect, we don't have jurisdiction to enforce it throughout most of the City of Winnipeg. We don't have jurisdiction in St. James, we don't have jurisdiction in Charleswood, we don't have jurisdiction in Transcona because we

don't have health inspections and inspectors in those parts of the City. That didn't stop us from passing the smoking regulation by-law. It's not going to stop us from passing a new by-law in a month or two based on the details in this particular clause. So the jurisdiction issue is not valid. As a matter of fact Mr. Speaker it just simply doesn't work.

There were some suggestions well, this could perhaps crater the whole new by-law if something is challenged. Legal officers have already told us Mr. Speaker that the by-law can be crafted in such a way that you create severable clauses. So that if somebody is going to challenge a particular aspect of the by-law it doesn't negate everything else in the by-law. That's a simple legislative drafting thing that is done here and is done at the Legislature and is done in Parliament all the time when there are contentious bills especially omnibus bills where some sections of them could be challenged. They can make them severable and it's included in the drafting of the by-law so that one challenge to one part of it doesn't negate everything else. I'm not concerned about that either.

I'm very glad to and I read the transcript that Premier Doer announced today are indicated in an interview on the radio that certainly he would comply. Mr. Speaker when we passed the current by-law we weren't sure if the Province was going to enforce it through their health inspections until the Minister of Health was kind of dragged into it kicking and screaming because originally he balked on it. He wasn't sure if they were going to enforce our by-law in those areas of the City where we don't have enforcement capabilities. Public opinion dragged him into it kicking and screaming.

I'm glad the Premier has indicated at least on a radio program, that sure if we pass a by-law the Province is going to respect that by-law in their facilities. If that's the case Mr. Speaker then I submit to you there's absolutely no problem in passing a clause which inserts casinos into the prohibited public spaces. Of course then the Province will obey our by-law because the Premier has said they will. So I don't see a problem Mr. Speaker in supporting this particular amendment. The Premier has said they would respect whatever by-law we pass so now what's the harm in putting it into our own legislation that casinos are a space in which smoking is prohibited. I'm asking members of Council to support this in the spirit of what the Premier has indicated they would be prepared to do, there's no harm in adding it to our by-law.

Mr. Speaker: Thank you. Councillor Lazarenko summing up on Motion No. 4.

Councillor Lazarenko: Thank you Mr. Speaker. The issue that is here today, and I want to emphasize and make this very very clear. I am not opposed to the clause that's here. I believe in a smoking ban. I know smoking is no good. But the question that has to be answered, that I'm concerned about is the way it is being implemented.

(4:18)

Simple as that. I'm sure the majority of the people feel the same way. And the rights of individual people that we're targeting it scares me, because you know what we do. Next time do we go into people's houses and see if they smoke because the neighbours complain because the next door neighbour smokes outside.

Mr. Speaker on the motion that I have here, Motion No. 4, it's a common sense motion. If the Mayor's indicated that the Premier on some radio station that is I guess the official advertised and the official communicators for us that he was on that radio station to say that he was going to abide by what the City of Winnipeg does. I would like to see a letter come to that effect. I'd like to see a letter come in from the Premier's Office to all members of Council. He spoke today, let him eat his words. I could tell you if the Casino butts out, I would like to know what will the losses be. $20 million, $50 million, $100 million a year. A lot of the people will be going on buses to the United States or into Saskatchewan. This is what's going to happen. A lot of them will be going in, they're going now

by the thousands. Special charter buses are leaving the City and going into Grand Forks outside of Grand Forks and outside of Thief River Falls. The losses that will be there, I doubt if the Premier is going to agree on that.

This is going to cost the City of Winnipeg right now this implementation is $113,000 somewhat. This is going to be for what? To hire individual people to hire enforcers that will be going into the communities and to say look, here you have been in violation, I don't think this can be done. You know how many people are going to ignore. I had said before go to a wedding social that is being held on a Friday or Saturday night, go in there and try and stop about 400 young people are there, maybe 50 to 100 are smoking. Try and stop it especially when they've got alcohol.

This is not a level playing field. All I'm asking for if the Mayor and the rest are saying that the Premier is going to do this no problem, we will have the ban in the Casinos, if that is the case vote for this motion or vote for Councillor Eadie's motion. What do you fear? Are you the spokespeople for the Premier? The Premier is not a member of this Council. Just because he has said that on some radio show, we don't have any confirmation. I never heard that. Mayor Murray you're nodding your head. You know sometimes you made some comments and you were taken to task because you've said this on an open line show but where is the document, where is a letter that would come to us and say, yes, Councillors we are going to be implementing a no smoking policy in the Casinos maybe starting in July or June or whatever the case may be. We don't have that.

What we're asking for at least some members of Council are, and failing to get this I have no alternative but to vote against the proposal of what the Executive Policy Committee is giving us because of the fact it's a very unfair playing field in here. We're not allowing any other person to at least have a challenge. There's nothing, nothing at all. We just tell them look, you butt out and that's it. Even though to some people there's a concern. I'm getting phone calls galore right now. The Press Club especially because they were mentioned in the paper. Five or six Press Club members former members or members of the Press Club right now are calling. They're saying please at least give us that.

The Legions are phoning now. They're saying at least give us that right. It's our right as a legion, don't take that away. Nobody's listening. Sure I agree no smoking, I don't smoke. I used to. When I puffed I was like President Clinton, the former President, I smoked but I never inhaled.

The one concern like I said. I'd like to know is what will be the losses in the Casinos if they ban smoking in the City of Winnipeg, what are they going to do with the other casinos that the natives have. Can you imagine on the reserves, Peguis Reserve, can you imagine Chief Louis Stevenson will say, oh yes Mr. Premier, oh I will because I believe in you, we will ban tobacco, smoking. He'll tell him and he'll bend over and I'll give an arrow and you're worth which direction it's going to go. I can guarantee I know Chief Stevenson personally, he's not going to take that lightly. Thank you.

Mr. Speaker: Thank you. Councillor Gerbasi on Motion No. 3.

Councillor Gerbasi: Thank you Mr. Speaker. I do have the opportunity to here to close on my amendment and then also on the clause. So if you don't mind me rolling it altogether I'll try not to be too long, it's been a long day.

The issue of the amendment regarding removing the exemption for private social functions. I actually want to thank the Manitoba Medical Association and some of the Councillors that brought this issue forward and we did discuss it in the later hour of this discussion. I think it's really important that we're going to bring forward a by-law like this that we do it right. There's been a number of changes in the last three weeks. We've changed the date to July 1, we've added in the exemption for tobacconists which I know Councillor Wyatt supported. I guess I

would say to Councillor Wyatt who read my e-mail from earlier in the week and comparing it to something that I'm saying later. I'd say to you Councillor Wyatt that it's okay to change your mind and to be open minded when new facts come to light. Perhaps you will choose to be open minded today and listen to what the majority of Council is going to be voting for today as well.

I'd like to emphasize that it's really important that we make these changes before the by-law is written, before the by-law is passed. And that's why we're doing that today.

Councillor De Smedt commented that he supports a smoking by-law, but he's not going to vote this and we should refer it and we should delay it and we should have a council seminar. I guess it's a little frustrating with those kind of tactics because I like what you're doing but I don't like how you're doing it. Let's get on with it, we're never going to get anything done. The process isn't perfect but I think that we have to sometimes move ahead. I think it hasn't been a perfect process but I think what we've got today is a very very good and a very very good step forward.

The other suggestion raised by Councillor De Smedt was that we ban private social functions at community clubs but not at other facilities because it is ridiculous to allow smoking in our community centres. Now the problem is we're right back to what we have now which is an unfair two tier system where you can have a social at some other place, some other facility and you can't have one at a community centre, and they're trying to struggle these volunteer boards to make ends meet.

The community centres have been surveyed by the GWCCC and they've agreed the majority have supported a total ban as long as it's a level playing field. I think we need to be supportive of our community centres.

That's what I'd to say to the amendment and then I'd like to close on the clause then. Is there an opportunity for someone else for the Mayor to speak again. I thought I was closing on the clause?

I was going to ask if I could use the time to just comment a bit on the other amendments because I didn't take that opportunity before if that's okay. I'll do that when they close. Thank you.

Mayor Murray: Thanks Mr. Speaker. I think the tobacconist shop is self-explanatory.

(4:25)

The July 1 date is particularly important. From this point on the easy part is over. It wasn't that easy. Now the hard part begins. The hard part is going to be enforcement. The lead time between now and July 1 and why I think we need that extra time Mr. Speaker is particularly important to get ready for this. When Mayor Terelli the Mayor of Ottawa talked to me about this he said, the most important part of it was the ability to enforce it, and that the City of Ottawa was able to manage very full and effective enforcement.

Not only are we not responsible for Workers Compensation, Liquor Control Act and all of the other and health and public health, we're the only city outside of Quebec of any size that doesn't have health jurisdiction. We are wholly reliant on the Government of Manitoba to enforce this. We're the only city that could pass this by-law in English Canada outside of Quebec that would be wholly dependent on a provincial government. I never believed public health should be transferred.

The good news is, is that we have Bill 39, and that's going to be very important that we all understand the limitations on it. The other difference with Ottawa is the Government of Ontario passed specific legislation authorizing municipalities in Ontario to bring forward by-laws to regulate smoking. They actually had a specific act of the Ontario Legislature that mandated it. We have neither of those things.

The wording of this is going to be extremely important. It's important that we don't take risks on the wording, and

that we're fully enforceable and we have the cooperation of the Province and the Premier. I just want to point out one thing. We have to build a relationship with the Premier and the Province on enforcement. I always remember some of my friends to my immediate right here…

Mr. Speaker: Excuse me Mr. Mayor, you're not closing on the clause only the EPC….

Mayor Murray: I'm sorry, on these issues to buy that time, I'm trying to be as creative as I can here Mr. Speaker. Where we used to joke around here that before the motion passed we had a no on the phone from the Premier's Office. The motion hasn't even passed yet and we got a yes from the Premier. I think that we should give our friends the benefit of the doubt given that between now and July 1, we're going to need their cooperation. I think we want to start this off on the right foot and use that lead time to build that relationship. Anything that we can do today that would be helpful in that direction would be extremely important.

Thank you for the creative interpretation of that clause Mr. Speaker. I appreciate the latitude you gave me.

Mr. Speaker: Thank you. Councillor Gerbasi closing on the clause.

Councillor Gerbasi: Thank you Mr. Speaker.

I wanted to raise the issue. One of the issues on this clause I don't know if this was totally clarified was. The issue that private clubs have been excluded as an exemption since the recommendation came forward from the Administration. I think there's a very clear and important reason for that. It would really be a loophole. This has happened in other cities where they've had these kind of exemptions. Where bars could go through the process of becoming private clubs and we would have a proliferation of private clubs, and we would have one establishment next door to a bar that is basically functioning a heck of a lot like a bar. If you go to the King's Head I think the place where many of us go after work on a Friday night, it's a very smoky place right now. I actually would like to invite all of you on July 1 to the King's Head to celebrate this because I'm going to start going back there because I'll be able to breath there now.

I think it is a clear distinction between that isn't a real distinction. Many private clubs are very similar to bars and we're going to have a proliferation of private clubs. That's the reason for excluding it.

I think it's pretty clear that we'd have a big problem on our hands. Private clubs are not something that necessarily all neighbourhoods really want. On Corydon there's often big issues when private clubs want to open up with communities that want public facilities for their bars and so on rather than private clubs that they're not quite sure are beneficial for the neighbourhood. I don't think that's a place we want to go.

It's our decision as politicians to decide how far we want to go within our authority. We are doing something today that is clearly within our authority. It just simply isn't acceptable to allow smoking to occur in community clubs where children frequent and where there's daycare centres attached. That's what would happen with the other issue with socials. I think that's important.

In terms of the Provincial Government, I think the point has been made, I think the Province is obviously going to hear by the very fact that we passed this by-law that there will be a huge increase pressure on them. I don't think we need to poke them in the eye over it. I don't think we need to beat them up over it. I think we need to work with them. I think that would be a very helpful approach. It's not an easy job. These are controversial issues for us and for them. I think we should work with them, and I think we should be appreciative of the fact that the Premier said today that they will be enforcing our by-laws throughout the City and help us enforce them with their staff. I don't see why that's still an issue that we have to beat them up over when they've already come out and stated it.

In closing, I think we've all said what needs to be said and I'd like to thank everyone for participating in this excellent discussion and thanks for all the support, and the public that participated, and I will close there. Thank you.

Mr. Speaker: Thank you Councillor Gerbasi.

Recorded votes have been requested on all amendments on the clause.

First on Motion No. 6 from Councillors Wyatt and De Smedt. All in favour please rise.

A RECORDED VOTE was taken the result being as follows:

Yeas

Councillors De Smedt, Wyatt and Lazarenko.

Nays

His Worship Mayor Murray, Councillors Eadie, Angus, Clement, Gerbasi, Lubosch, Pagtakhan, Smith, Steek, Steeves, Thomas, Vandal and the Speaker Councillor O'Shaughnessy.

Deputy City Clerk: The vote Mr. Speaker, Yeas 3, Nays 13.

Mr. Speaker: The amendment is defeated.

Recorded vote on Motion No. 5, moved by Councillors Eadie and Angus. All in favour please rise.

A RECORDED VOTE was taken the result being as follows:

Yeas

Councillor Eadie, Angus, Clement, De Smedt, Wyatt, Lazarenko.

Nays

His Worship Mayor Murray, Councillors Gerbasi, Lubosch, Pagtakhan, Smith, Steek, Steeves, Thomas, Vandal, Mr. Speaker Councillor O'Shaughnessy.

Deputy City Clerk: The vote Mr. Speaker, Yeas 6, Nays 10.

Mr. Speaker: The motion is defeated.

Moving onto Motion No. 4, moved by Councillor Lazarenko, seconded by Councillor Wyatt. All in favour please rise.

A RECORDED VOTE was taken the result being as follows:

Nays

Councillors De Smedt, Wyatt, Lazarenko.

Nays

His Worship Mayor Murray, Councillors Eadie, Angus, Clement, Gerbasi, Lubosch, Pagtakhan, Smith, Steek, Steeves, Thomas, Vandal, Mr. Speaker, Councillor O'Shaughnessy.

(4:33)

Deputy City Clerk: The vote Mr. Speaker, Yeas 3, Nays 13.

Mr. Speaker: Motion is defeated.

Motion No. 3, moved by Councillor Gerbasi, seconded by Councillor Lubosch, all in favour please rise.

A RECORDED VOTE was taken the result being as follows:

Yeas

His Worship Mayor Murray, Councillors Eadie, Angus, Clement, Gerbasi, Lubosch, Pagtakhan, Smith, Steek, Steeves, Thomas, Vandal, Mr. Speaker Councillor O'Shaughnessy.

Nays

Councillors De Smedt, Wyatt, Lazarenko.

Deputy City Clerk: The vote Mr. Speaker, Yeas 13, Nays 3.

Mr. Speaker: The amendment of the Executive Policy Committee, those in favour please rise.

A RECORDED VOTE was taken the result being as follows:

Yeas

His Worship Mayor Murray, Councillors Eadie, Angus, Clement, De Smedt, Gerbasi, Lubosch, Pagtakhan, Smith, Steek, Steeves, Thomas, Vandal.

Nays

Councillors Wyatt, Lazarenko, Mr. Speaker Councillor O'Shaughnessy.

Deputy City Clerk: The vote Mr. Speaker, Yeas 13, Nays 3.

Mr. Speaker: The amendment is carried.

Now on the clause as amended by Motion No. 3 and the Executive Policy Committee, all in favour please rise.

A RECORDED VOTE was taken the result being as follows:

Yeas

His Worship Mayor Murray, Councillors Eadie, Angus, Clement, Gerbasi, Lubosch, Pagtakhan, Smith, Steek, Steeves, Thomas, Vandal, Mr. Speaker Councillor O'Shaughnessy.

Nays

Councillors De Smedt, Wyatt, Lazarenko.

Deputy City Clerk: The vote Mr. Speaker, Yeas 13, Nays 3.

Mr. Speaker: The clause as amended is carried.

Moving onto the Report of March 10, 2003.

REPORT OF THE STANDING POLICY COMMITTEE ON PROTECTION AND COMMUNITY SERVICES DATED MARCH 10, 2003

Councillor Gerbasi: I'd like to move Items 1 to 3 as consent items. Item 4 is referred back. Item 5 I'd just like to speak to very briefly.

Mr. Speaker: Do you want it stood down?

Councillor Gerbasi: I would like to stand it down.

Mr. Speaker: On Item Nos. 1, 2 and 3 as consent. All in favour? Contrary? Carried.

Councillors Eadie and Clement in opposition to Item Nos. 1 and 3.

Councillor De Smedt recorded in opposition to Item No. 1. All in favour? Contrary? Carried.

Clause 5.

Item No. 5 - Review of the Tattoo Studio By-law - Proposed Body Modification By-law File EL-1 (Vol. 32) [c/r EH-1 (Vol. 22)]

Councillor Gerbasi: Thank you Mr. Speaker. I realize it's been a long day but it's also been seven years that the members of the public have been working to get this issue of the body modification by-law forward. I just wanted to say a few brief words to you today if I could just have your patience.

I'm very pleased to see us moving forward on this important public safety and health issue. It's interesting to note that members of the profession and the business community have been leaders in asking the City to regulate their profession. I think that's a pretty remarkable thing as the Mayor had commented on earlier.

When you have business people coming forward seeking greater controls and standards on their industries solely for the benefit of public health, I think that's something we should make note of.

With Council's approval today, the Administration will proceed to draft a by-law that is at the forefront of progressive legislation in Canada and in North America. Other cities such as Toronto are wrestling with the same concerns and are in the process of bringing in better standards and controls for this industry.

When the original tattoo by-law was brought in in the late '80s, piercing was not the popular and common practice that it is today. The current by-law does not even refer to piercing and other body modification techniques that are common today.

(4:38)

Any person today could set up a shop and start piercing people with no trainings, no standards, no requirements for licensing and inspecting, and that is simply madness.

There's been extensive consultation with the community in developing this report. I'd like to thank in particular Eric Johanson and Jason, these folks have been championing this for years and years, and so we would not be here without their efforts, and I urge Council to support this policy and address this issue. Thank you very much Mr. Speaker.

Mr. Speaker: Thank you. All in favour of Item No. 5? Contrary? Carried.

Councillor Gerbasi moves the rules be suspended to introduce the Report of March 20, 2003.

All in favour? Contrary? Carried.

REPORT OF THE STANDING POLICY COMMITTEE ON PROTECTION AND COMMUNITY SERVICES DATED MARCH 20, 2003

Councillor Gerbasi: I'll move the report.

Mr. Speaker: All in favour? Contrary? Carried.

Item No. 1 - 2003 Final Operating Grants to Cultural Organizations Files FG-1.1. and FG-3 (Vol. 43)

Councillor Gerbasi: This is simply a report on the normal arts funding that, it's just an administrative need to get it out here in time so we can get the money out to our arts groups.

Mr. Speaker: All in favour? Contrary? Carried.

Motions, none. By-laws, none. Questions. Councillor Steek moves adjournment.

Roll call.

ROLL CALL

Clerk: Mr. Speaker, Councillor O'Shaughnessy, His Worship Mayor Murray, Councillors Eadie, Angus, Clement, De Smedt, Gerbasi, Lubosch, Pagtakhan, Smith, Steek, Steeves, Thomas, Vandal, Wyatt, Lazarenko.

COUNCIL ADJOURNED AT 4:40 P.M.

COUNCIL OF THE CITY OF WINNIPEG
Wednesday March 26, 2003
CONTENTS

ROLL CALL.....265

INTRODUCTION AND WELCOME OF GUESTS AND ANNOUNCEMENTS
.....265

Motion.....265

MINUTES.....265

COMMUNICATIONS.....265

DELEGATIONS.....266
Mr. Robert Kreis 266
Ms Theresa Ducharme.....268
Mr. Bob Stevens 269
Dr. Steve Duncan 270
Mr. Eric Johanson.....273
Mr. Jason Berezak.....275
Mr. Brent Moffat.....276
Dr. Sandy Harlos 278
Mr. David Mollins.....279
Dr. Mark Taylor.....279
Mr. Aaron Yanofsky 280
Ms Evenlyn Yanofsky.....281
Mr. Jim Baker 281
Mr. Leo Ledohowski.....282
Mr. Jeff Glover.....285
Mr. Bruce Gouriluk.....285

REPORT OF THE EXECUTIVE POLICY COMMITTEE
DATED MARCH 5, 2003 286

REPORT OF THE EXECUTIVE POLICY COMMITTEE
DATED MARCH 12, 2003.....286

REPORT OF THE EXECUTIVE POLICY COMMITTEE
DATED MARCH 18, 2003.....286

Item No. 22 - Acquisition of Environmentally Sensitive Land Under Proposed Plan of Subdivision DASZ 19/2000 (Bois des Esprits) Riel Community - File DASZ 19/2000.....287

REPORT OF THE EXECUTIVE POLICY COMMITTEE
DATED MARCH 25, 2003.....288

Item No. 1 - 2003 School Division Levies and Mill Rates - File FL-3 (Vol. 11) 288

Item No. 2 - Appointment of an Acting Chief Administrative Officer - File GP-1.35 (Vol. 1) 298

Item No. 3 - 2007 World Hockey Championship - File GC-8 (Vol. 6)..... 298

EXECUTIVE POLICY COMMITTEE CONSIDERATION OF BY-LAWS 298

By-laws numbered 46/2003, 49/2003, 50/2003, 57/2003, 58/2003, 60/2003, 65/2003, 66/2003 and 67/2003..... 298

By-law No. 69/2003..... 299

REPORT OF THE STANDING POLICY COMMITTEE ON PUBLIC WORKS
DATED MARCH 11, 2003..... 299

Item No. 3 - Temporary Signs in Public Rights of Way - File SC-3.1 (Vol. 4) 299

STANDING POLICY COMMITTEE ON PUBLIC WORKS CONSIDERATION OF BY-LAWS 299

By-law No. 64/2003..... 299

REPORT OF THE STANDING POLICY COMMITTEE ON PROPERTY AND DEVELOPMENT
DATED MARCH 4, 2003..... 300

Item No. 17 - Proposed Amendment to the Development Procedures By-law for Conditional Uses - File EP-1 (Vol. 21).. 300

Motion No. 2..... 300

REPORT OF THE STANDING POLICY COMMITTEE ON PROPERTY AND DEVELOPMENT
DATED MARCH 6, 2003..... 300

STANDING POLICY COMMITTEE ON PROPERTY AND DEVELOPMENT CONSIDERATION OF BY-LAWS 300

COUNCIL OF THE CITY OF WINNIPEG
Wednesday March 26, 2003
CONTENTS

By-laws numbered 36/2003, 47/2003, 48/2003, 51/2003, 52/2003, 53/2003, 54/2003, 55/2003, 56/2003, 62/2003, 63/2003 and 68/2003 300

By-laws numbered 45/2003, 70/2003, 71/2003, 72/2003, 73/2003, 74/2003 and 75/2003.....301

REPORT OF THE STANDING POLICY COMMITTEE ON PROTECTION AND COMMUNITY SERVICES DATED MARCH 3, 2003 301

Item No. 1 - One-year Review of the Smoking By-law No. 7870/2001 - File EH-1.2 (Vol. 10).....301

Motion No. 6.....303

Motion No. 5.....305

Motion No. 4.....306

Motion No. 3 309

REPORT OF THE STANDING POLICY COMMITTEE ON PROTECTION AND COMMUNITY SERVICES DATED MARCH 10/2003.....340

Item No. 5 - Review of the Tattoo Studio By-law - Proposed Body Modification By-law - File EL-1 (Vol. 32) [c/r EH-1 (Vol. 22)] 340

REPORT OF THE STANDING POLICY COMMITTEE ON PROTECTION AND COMMUNITY SERVICES DATED MARCH 20, 2003.....341

Item No. 1 - 2003 Final Operating Grants to Cultural Organizations - Files FG-1.1 and FG-3 (Vol. 43).....341

ROLL CALL.....341