

HALIFAX REGIONAL MUNICIPALITY

HALIFAX REGIONAL COUNCIL MINUTES April 8, 2003

PRESENT:

Mayor Peter J. Kelly
Deputy Mayor Harry McInroy
Councillors: Steve Streach
Gary Hines
Keith Colwell
Ron Cooper
Brian Warshick
Condo Sarto
Bruce Hetherington
Jim Smith
John Cunningham
Jerry Blumenthal
Dawn Sloane
Sue Uteck
Sheila Fougere
Russell Walker
Diana Whalen
Linda Mosher
Stephen Adams
Brad Johns
Robert Harvey
Len Goucher
Reg Rankin
Gary Meade

STAFF:

Mr. George McLellan, Chief Administrative Officer
Mr. Wayne Anstey, Municipal Solicitor
Ms. Jan Gibson, Municipal Clerk
Ms. Sherryll Murphy, Legislative Assistant

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1. **CALL TO ORDER**

The meeting was called to order at 10:15 a.m.

2. **CONTINUATION OF PUBLIC HEARING RE: BY-LAW S-203, RESPECTING SMOKE FREE PLACES**

- The public hearing regarding this matter was recessed to this time from the April 2, 2003 meeting of Halifax Regional Council.
- A memorandum dated April 8, 2003 from Mr. Paul Dunphy, Director of Planning and Development Services was circulated to members of Council.

The following was submitted in favour of the proposed By-law:

- Publications: "Capital Health, Robert Strang, MD, MHSc., FRCPC, Medical Officer of Health", "CNN.com - Study: Smoking Ban Cuts Heart Attacks", "American Journal of Public Health", "OpinionTrac Research"
- Correspondence received from: Helen Jones, Diane Sweeney, Michael Flemming - Chair, Halifax Regional School Board, Saint Patrick's High School Students (40). David Beck, Raymond Fralick, Student Council of Musquodoboit Rural High School, Alan Ruffman, Cherie Lewis, Marie Claire Bourque, Ardythe Ashe, Gisele Dupuis, Trish Rowat, Julie Ferrier, Ken McGowan, Lawna Stewart, Kimberley Heaphy, Ken Howells, Carol King, Giles Gaudet, Harry Glube, Michelle Ashford, Cari Vanlingen, Wayne Sutherland, Marlene Fowler, Ray Fralick,
- Submitted by Councillor Mosher: "The News Journal Publication: California Smoking Ban has Its Ups and Downs", "Newsday.com Publication: Mayor Signs Smoking Ban Into Law" and "Nova Scotia Smoke-Free Regulations".

The following was submitted in opposition to the proposed By-law:

- Bill No 125 (An Act to Protect Young Persons and Other Persons from Tobacco Smoke)
- Correspondence received from: Marie Brewer, Earnest C. Harrison - Royal Canadian Legion (Calais Branch 162), Armour M. McCrea, Colleen Goodine, Luc M. Erjavec - Canadian Restaurant and Foodservices Association, The Lions Head Tavern & Grill,
- Petition from McInnes and Cooper containing 25 signatures.

His Worship advised that the public hearing regarding By-law S-203, respecting Smoke Free Places would continue at this time. Continuing with the list of speakers, His Worship called the next persons forward.

Mr. Tom Wile, Tom's Little Havana Café

Mr. Tom Wile, Tom's Little Havana Café, provided a package of information to members of Council including the following:

- Extract from The Municipal Open Line re enforcement of Municipal By-laws re Correspondence from Roddy MacDonald
- Business Case for Tom's Little Havana Café
- Correspondence re Courtesy of Choice Evaluation dated March 8, 1999
- Correspondence recognizing support by Tom's Little Havana Café for Squash Nova Scotia, Scotia Festival of Music, Jim MacPherson Memorial Society, and Queen Elizabeth High School
- Correspondence dated February 15, 2003 to Barbara Nehiley from Tom Wile re impact of proposed By-law
- Petition supporting the Provincial Legislation and opposing the proposed By-law containing 96 signatures
- Petition calling for the exclusion of Tom's Little Havana Cafe from the proposed By-law signed by approximately 286 persons
- Liquor License Board Regulations /Table of Licences and Requirements

Mr. Wile addressed Council advising that he was the owner of the only cigar bar in HRM. He stressed that his establishment was not a hotel, not a pure restaurant, but a unique entity. Mr. Wile went on to note that his business will become extinct within weeks of this proposed By-law becoming law which will result in loss of employment for 17 persons. Mr. Wile, referring to Provincial regulation, noted that his business had been given a variance by the Province because of the unique nature of his business - a cigar bar. Referring to problems with the proposed By-law, Mr. Wile asked who is going to police the By-law. He noted that he did not believe the Province would be policing the By-law and referred to the above letter from Roddy MacDonald. He went on to question how the police would deal with increased crowd control as patrons leave the bar to smoke.

Noting that Council had discussed what establishments should be governed by this By-law, Mr. Wile explained that all licenses were the same. Restaurants that serve alcohol and lounges (required to service food) all obtain the same license. In conclusion, Mr. Wile asked that Council consider the impact of this By-law on Tom's Little Havana Café and noted that the Province has enacted the most stringent legislation in all of Canada.

Councillor Goucher, referring to Mr. Wile's comments regarding Provincial enforcement, requested that staff confirm whether the Province intends if HRM's enacts a 100% non smoking By-law, to relinquish its present responsibility relative to enforcement.

Clarifying an issue for Councillor Blumenthal, His Worship confirmed that the report to come forward from staff would include the cost of enforcing the By-law.

Stephen Lockyer, 8 Litchfield Crescent

Mr. Stephen Lockyer, speaking against the smoking ban, noted that Nova Scotia has spent a great deal of money developing a hospitality Industry. He went on to suggest that most hospitality experts would agree that Halifax Regional Municipality should be able to accommodate both smoking and non-smoking adults. Given this, why not strengthen the industry by accommodating, rather than weakening the industry through this ban.

Mr. Lockyer referred to an article originally published by Oxford University Press and reprinted from Contemporary Economic Policy entitled 'Smoking laws and their differential effects on restaurants, bars and taverns. He indicated that this report clearly shows that laws restricting smoking do have a negative impact on restaurants and bars. Mr. Lockyer submitted the article for distribution to Council. In conclusion, Mr. Lockyer urged Council to vote against the smoking ban.

Councillor Hetherington noted that the previous speaker had referred to the licensing of the different types of establishments and requested that staff include in the report a review of the different types of licenses that are required in the different types of establishments and qualifications for those.

Stephen Fraser, Fenwick Street

Mr. Stephen Fraser, an employee of Tom's Little Havana Café, addressed Council suggesting that his customers can and will make an informed choice. He went on to note that a total ban on smoking will result in Tom's Little Havana Café being unable to conduct business. Mr. Fraser went on to indicate that he believed the concerns regarding workers being subjected to smoke are addressed in the Provincial legislation. He indicated that if the legislation is passed as it stands, he will lose his job and encouraged Council to at least consider exemptions for special interest establishments.

Krista Jackson, Café Yada Yada

Ms. Krista Jackson, an employee of Café Yada Yada, advised that she was the mother of two small children, and very concerned about smoking. She went on to indicate that she and her children have been subjected to second hand smoke on a number of occasions at the

entrances to a variety of shopping and service establishments. Referring to the children being subject to smoke in bars, Ms. Jackson suggested that children should not be in bars, bars are adult establishments. In conclusion, Ms. Jackson suggested that this By-law would lead to increased smoking on streets and increased litter which would not create a very good impression for visitors to our community.

Caley MacLennan, District 12

Mr. Caley MacLennan, the owner of a non smoking café and father, addressed Council providing historical background to non smoking legislation. Mr. MacLennan noted that there was significant precedent for the legislation before Council today. Historically, alcohol prohibition failed due to the fact that government is unable to enforce these laws. He went on to note that studies have shown that taxes are the best deterrent.

Mr. MacLennan went on to suggest that if smokers are attacked too strongly they will be forced into underground establishments, these establishments already exists in communities where the ban is in place. Mr. MacLennan indicated that what is needed is education. He went on to suggest that rather than including children in bars as has been the trend in the last number of years, the public should recognize that drinking and gambling are unhealthy. Whether or not smoking is banned, these activities are still unhealthy. Mr. MacLennan indicated that society should move away from children in the bars. In conclusion, Mr. MacLennan quoted Joe Howe, a temperance supporter, but not a prohibitionist.

Michelle Strum, District 12

Ms. Michelle Strum, noting that she had attended all the previous hearings, expressed concern regarding the children who had spoken on a previous occasion and noted that she was confused as to where their interests lie. They are neither affected or protected by the proposed smoking ban. Children are already protected under the Provincial legislation.

Ms. Strum indicated that the proposed ban is trying to protect adults over the age of 19, - where they work and where they socialize. She asked if the ban was saying that these adults do not have the wherewithal to make the decision. Referring to logistical problems, Ms. Strum expressed concern that if the patrons of the bars go outside to smoke, so will bottles. This will result in more broken bottles on the streets and increased fighting. Ms. Strum asked that Council give the Provincial legislation a chance and consider the cost of the ventilation systems installed by restaurant and bar owners to meet the legislation. In conclusion, Ms. Strum, speaking rhetorically, asked if she were to lose her job, would HRM support her.

Jason Schroeder, Tom's Little Havana Café

Mr. Jason Schroeder, an employee of Tom's Little Havana Café, advised that his wife works the day shift at Toms Little Havana Café and that since the Provincial legislation has

been enacted, she has experienced a 50% reduction in pay. He went on to note that if this proposed ban should come into being, whether he and his wife lose their jobs or not, they will not be able to maintain their lifestyle.

Gina Morrison, Tom's Little Havana Café

Ms. Gina Morrison, an employee of Tom's Little Havana Café, advised that if this By-law is enacted she will lose her job.

Art MacMillan, Mickey's Beverage Rooms

Mr. Art MacMillan, owner of Mickey's Beverage Rooms, addressed Council indicating he was opposed to a complete smoking ban. He noted that his company owned three (3) beverage rooms in Metro. Mr. MacMillan indicated that he had decided after in depth research, and Council's decision not to proceed with a total ban in November, to comply with the Provincial regulations. Mr. MacMillan went on to advised that his company has borrowed more than \$200,000 to make the necessary changes to his establishments. Mr. MacMillan indicated that it would be a mistake to institute a 100% ban at this time. The new Provincial legislation should be given a chance to work. Mr. MacMillan pointed out that 25% of the population, approximately 100,000 residents, smoke. Concerns regarding the health of employees are addressed under the new Regulations.

Mr. MacMillan suggested that history has shown us that total bans are not very enforceable. Why risk a whole new set of problems for law enforcement - enforcing the new law, responding to complaints, and the hide and seek trying to find the new underground economy. He went on to suggest that Council ask themselves the following questions before voting on this By-law: Why risk damaging or destroying hundreds of successful businesses in our community? Why would risk thousands of hardworking voters' jobs in this industry? Why would abandon approximately 100,000 citizens who choose to smoke? Why allow neighbouring community's businesses to have an advantage over ours? Can we enforce the total ban on every piece land in our municipality - Provincial, Federal, Reserves, etc.? Concluding his remarks, Mr. MacMillan commented that the new Provincial law is not perfect, but it is workable. Smokers are glad they do not have to go outside to smoke and non-smokers are enjoying both areas. This is about choice and accommodating our customers.

Linda deBoer, Halifax

Ms. Linda deBoer, an employee of Mickey's Beverage Room, noted that her employer had installed a smoking room. She went on to indicate that patrons have a choice with the Provincial legislation. Ms. deBoer indicated that she believed that the smoking ban will impact the number of hours employees will be working.

Sue Huelin, Halifax

Ms. Sue Huelin noted that Government response to smoking is to force smokers outside. Forcing smokers outside can lead to other respiratory problems and force non-smokers to go through concentrated areas of smoke. Ms. Huelin indicated that businesses have spent a great deal of money to accommodate both smokers and non-smokers and suggested that the present legislation was sufficient.

Richard O'Bierne, Vice President, Hotel Association of Nova Scotia

Mr. Richard O'Bierne, manager of a local hotel and speaking on behalf of the Hotel Association of Nova Scotia, indicated that his organization shares the goal of reducing smoking and improving health. The Hotel Association of Nova Scotia is not pro smoking. He went on to indicate that for the most part, the Association supports the efforts to reduce the sale of tobacco product not limit where it can be consumed.

Mr. O'Bierne went on to note that as hoteliers, the members of his organization are dedicated to providing the best atmosphere for their patrons. The industry is based on meeting needs of our customers, and some of those people smoke. Mr. O'Bierne noted that the industry markets to the international market and this market is vital to the continued success of business. A number of these people smoke. The industry tries to balance the needs of its customers. Mr. O'Bierne indicated that the Association believes the Provincial legislation is sufficient. He went on to suggest that total no smoking bans do not work and, in fact, the lack of enforcement in some cases has made a mockery of these bans.

In conclusion, Mr. O'Bierne indicated that the Hotel Association of Nova Scotia supports any Government programs to stop smoking or, better yet, to not start smoking. However, Mr. O'Bierne asked that Council not harm an industry which is simply trying to meet the needs of its guests.

In response to question from Councillor Adams as to whether or not the Association had adopted a formal resolution regarding the position put forward today regarding the smoking ban, Mr. O'Bierne indicated that no formal resolution had been approved, but there was no significant dissenting voice.

Margy Randelle, Arthur Street, Dartmouth

Ms. Margy Randelle indicated that she was opposed to the 100% ban on smoking. She indicated that business must accommodate all customers as much as is possible. Ms. Randelle indicated that the new smoking rooms appear to be working and that, in conversation with non smokers, they appear to be content with the legislation. She noted that Moirs, an international company, has chosen to add on a smoking room for their employees. Ms. Randelle indicated that she believed it was necessary to accommodate everyone who can be accommodated.

Dr. Robert Strang, Medical Officer of Health, Capital Health

Dr Strang, Medical Officer of Health, indicated that he was present today fulfilling his responsibility to speak in the public on health issues. He indicated that part of his job is to inform the public and decision makers about health risks. Dr. Strang indicated that the 100% no smoking By-law is all about health.

Dr. Strang tabled a number of documents with Council disproving claims made earlier in this hearing including:

- Documentation which clearly states that the tobacco industry has paid millions dollars to the Hotel Association to run the Courtesy of Choice program. A key word in that program is accommodate. In Nova Scotia, this program has been run by the Hotel Association of Nova Scotia and the Restaurant and Food Association.
- An e-mail which clarifies that the 100% ban is in effect in Fredericton
- Verification that the EPA report from the United States declaring second hand smoke as a cause of lung cancer has been upheld in court
- Clarification that designated non-smoking rooms are not required, they are optional.

Dr. Strang is health first and foremost and this By-law is a necessary part of any strategy to protect health. He went on to indicate that there is clear evidence that such a By-law will reduce the number of youth who start smoking and increase the number of smokers who successfully quit. A 100% smoke free by-law will save lives and create healthy communities. Dr. Strang indicated that he would table a study that indicates that Smoke Free By-laws have an immediate impact on health by decreasing the rate of heart attack.

Dr. Strang noted that a smoke free By-law will be good for the economy. The Halifax Chamber of Commerce supports a smoke free By-law for this reason and have tabled a submission to that effect. He asked that if the decision is to be made on economics, Council look at the total economics of the situation. Dr. Strang went on to note that this By-law is strongly supported by Council's constituents (73%) and that objective data disproves the unsubstantiated claims of a negative impact promoted by the hospitality industry. He went on to note that he would table information that disproved claims by the Canadian Federation of

Restaurant Associations of a negative impact. He further indicated that he would table a study that a large percentage of bar owners and employees in California now support a smoke free environment.

In conclusion, Dr. Strang indicated that this is an opportunity for Regional Council to show leadership and vision.

Dr. Strang then responded to questions from members of Council.

Mr. John Dow, Nova Scotia Provincial Health Council

Mr. John Dow, Executive Director of the Provincial Health Council, noted that the Provincial Health Council has been looking at health over Nova Scotia. In consultations with the residents of Nova Scotia, it has become clear that residents would like their elected officials at all levels of government, to support them in development and maintaining healthy communities including healthy air, water, and land. Mr. Dow noted that second hand smoke is a pollutant and a health risk and clearly within the area of developing healthy communities. In conclusion, Mr. Dow encouraged Council to approve the 100% smoke ban.

Ms. Cathy Leslie, a resident of Peninsula Halifax

Ms. Cathy Leslie noted that some of the Legions and some of the community groups have made efforts to go smoke free. Ms. Leslie indicated that in smaller (rural) residential areas it is very difficult for the community to regulate itself in this regard. She went on to suggest that some areas would be very open to having legislation in place to provide this encouragement. Referring to timing and opportunity, Ms. Leslie indicated that she felt this had been missed in November and the situation before Council is very uneven and inequitable.

Ms. Leslie went on to suggest that public opinion has shifted and smoking in public places is not the best choice. However, she indicated that she believed it was necessary to work collaboratively with Council providing leadership to work towards public policy that will enhance private lives and public places. Ms. Leslie recognized that there will be challenges to some sectors and encouraged Council to engage these sectors in meeting those challenges.

Ms. Wendy Chambers, Brunswick Street

Ms. Wendy Chambers, O'Carrolls addressed Council noting that this public hearing has been emotionally charged and been witness to some heated debate. Clarifying exactly what was being discussed, Ms. Chamber noted that Council was, in fact, dealing with smoking after 9 pm, doing away with smoking rooms and smoking in private clubs. She went on to note that adults have a choice to smoke or not and should not be persecuted/ or

discriminated against because of that choice. Ms. Chambers went on to indicate that she believed the Provincial legislation was a compromise. She further commented that at her place of work there were ten (10) hours of non-smoking during which patrons can enjoy O'Carrolls.

Mr. Don Halpenny, Manager, Rodeo Lounge and Restaurant

Mr. Don Halpenny, Manager, Rodeo Lounge and Restaurant, advised that he and his staff of 33 are opposed to the 100% Smoking Ban. He went on to indicate that he has complied with th Provincial Legislation and has difficulty with the timing of this By-law. He went on to suggest that there are a number of other worthy areas for discussion by Council and encouraged those presenting today and making the decisions to move slowly.

Noting that it was approaching 12:00 p.m., the Mayor asked what Council would like to do relative to continuing the public hearing.

After a brief discussion it was agreed that a decision with regard to continuation of the public hearing be made at 4:00 p.m.

At this point the meeting recessed to be reconvened at 1:15 p.m.

The meeting reconvened at 1:15 p.m. with all members of Council present except Councillor Smith (Regrets).

Ms. Sarah MacLaren

Speaking against the by-law, Ms. MacLaren stated it is disconcerting that municipal government wants to tread this far into her individual choice. If the by-law is implemented, she stated the local businesses will be hurt as they will no longer be receiving her money, as she will choose to eat and drink at home. As an adult, Ms. MacLaren stated it is her right to choose what she does or does not do.

Mr. Grant MacIsaac, Parkside Pub, Burnside

Speaking against the by-law, Mr. MacIsaac stated the majority of people speaking for the by-law are not indicative of their patrons. He stated the bulk of the Parkside Pub's market is males, aged 35-40, lower to middle income. Mr. MacIsaac stated this interest group has not had a voice in this public hearing. He suggested the new provincial legislation goes far enough. Mr. MacIsaac stated he believes his business can cater to both smokers and non-smokers as they have invested significant money building smoking rooms which were built to government specifications and approved by engineers. In closing, Mr. MacIsaac noted his

personal experience has been that staff fight over who gets to work in the smoking room before 9:00 p.m. because that is where the majority of customers are located.

Dr. Ed Kinley

Speaking in support of the by-law, Dr. Kinley quoted additional statistics regarding the health of Nova Scotians, noting many of these health problems and diseases are preventable with healthy lifestyle choices. He stated the present health system is not sustainable, and the only way to contain costs is to invest in wellness and prevention programs. Dr. Kinley stated healthy lifestyle choices require education and public policy, and he urged Council to ban smoking in all indoor public places.

Ms. Barb Scott, Porter's Lake

Ms. Scott spoke in support of the by-law as it shows commitment to community and health. She noted that she has worked in various places that permitted smoking over the last 15 years and she wished the bylaw existed then. Ms. Scott urged Council to look at the Ottawa Web site and the Health Canada Blue Ribbon link. With regard to the current legislation, she stated it is compromising, not a compromise. In closing, Ms. Scott stated as elected representatives Council has the ability to do the right thing and she urged them to vote for the by-law, and that it include casinos.

In response to a question of Councillor Blumenthal regarding jurisdiction over casinos, Mr. George McLellan, Chief Administrative Officer, stated staff will review this for the report.

Councillor Sloane asked that regulation of the by-law for Abbey Lane also be included in the staff report.

Mr. Eric Strathdee, Best Western Mic Mac Hotel, Dartmouth

Mr. Strathdee, speaking against the by-law, stated hundreds, if not thousands, of people will lose their jobs if this goes through. He noted that he has worked in the industry since he was 18, and he is a non-smoker. Business at the Best Western is down 40 percent over last year, thus decreasing income for staff. He stated less customers are coming less often for less time. Mr. Strathdee stated he called former customers who said they were staying home where they can smoke. The by-law will not stop people from smoking. Mr. Strathdee further stated that polling the general population on how his business should be run is irrelevant. He suggested Council talk to the patrons and find out what they want before making a decision. In closing, Mr. Strathdee stated this by-law will also hurt tourism.

Mr. Richard Stevens, Pogue Fad Irish Public House, Halifax

Speaking against the by-law, Mr. Stevens stated the real economic impact of a total smoking ban will be more than many local establishments can bear. He noted that many of his lunch customers have left because there is no smoking room. Smoking is a choice people are free to make and they will make alternate arrangements for eating and entertainment. Many of his staff are single income families or students and they will suffer. Mr. Stevens suggested a survey should have been conducted of the workers to determine their wishes as they are not adequately represented at this public hearing. He stated the current legislation is a good start and it provides for both groups. Mr. Stevens suggested a total ban is as unreasonable as having no regulation at all. In closing, he requested that cooler heads prevail and that Council give the provincial legislation a chance to work and amend later if needed.

Mr. J. Groat, Dartmouth

Speaking against the by-law, Mr. Groat noted that 75 percent of Nova Scotians do not smoke, but 75 percent do not frequent places where smoking takes place. Therefore, he stated that the 75 percent who do not go to bars should not be permitted to tell the 25 percent who do what to do.

Mr. Jason Garnier, Halifax

Speaking against the by-law, Mr. Garnier stated he was worked in the hospitality industry for 15 years and is a non-smoker. He is aware of the risks working in this environment but is happy to do what he does. Mr. Garnier stated there are health risks from other substances such as alcohol and perfume and suggested that if smoking is banned, everything should be banned. The option is to regulate. Mr. Garnier stated people are free to make choices where they spend their time and money and someone else should not make that choice for them. In closing, Mr. Garnier noted none of his colleagues were ever asked how they felt about the issue by anyone outside the hospitality industry.

Carla Balser, Rodeo Lounge, Dartmouth

Speaking against the by-law, Ms. Balser stated non-smoking staff at the Rodeo Lounge have a choice where to work in the bar. She noted that she spoke to her staff in great length about this issue. Ms. Balser stated it is an adult establishment with excellent ventilation. The majority of the bar's customers are smokers and 120 of 140 said they would not come back if it was non-smoking. This will greatly affect business. Ms. Balser noted that no cigarette representative ever offered her anything in the two years she has been the manager. She stated the lounge also does community work and this will be reduced if business goes down. Ms. Balser noted the cost of building a smoking room has already had such an effect. In closing, she inquired if the by-law will affect gaming areas on native reserves. Mayor Kelly responded that this could be addressed in the staff report.

Mr. Bruce Keith, Landmark Hospitality Group

Speaking against the by-law, Mr. Keith stated he conducted a survey of his 198 employees, 102 of whom smoke, and they are scared of what this by-law will do to their jobs. Mr. Keith stated the by-law will adversely affect the industry and the families of its employees and will force smoking out on to the sidewalks. In closing, Mr. Keith stated his business is down 25 percent since the implementation of the provincial regulations.

RECESS

Council recessed at 2:00 p.m. and reconvened at 2:20 p.m.

Ms. Donna Ring

Ms. Ring addressed Council noting she has been a lawyer for 22 years and has experience in class action and mass tort litigation. Ms. Ring noted she was also involved with the tainted blood inquiry of Canada. She noted a number of lessons can be learned from that experience, one of the most important ones being that a multiplicity of parties had the ability to make a partial difference, and, if taken, those tragedies would not have occurred. She stated that, in the end, those who had the ability to do something and did not were wrong, as they had an obligation to protect the public. Ms. Ring stated Council is the grassroots level of government that makes policy that affects community at the basic level. She stated this is Council's issue and business. The bars and restaurants are public places even though they are privately owned, and all of HRM looks to Council to make this important decision. Council has an obligation to take measures to protect the residents' health, even if they are partial measures. In closing, Ms. Ring stated this is Council's responsibility.

Mr. Gordon Lapp, Argyle Cobblers Ltd. (four licensed establishments)

Mr. Lapp questioned if health is an issue for Council. He noted the provincial legislation is being followed and exceeded in some cases as one of his operations is completely smoke-free. Mr. Lapp stated if the by-law is adopted, there will be significant job loss in the short term and a reduction in the marketplace, to what extent remains to be seen. In the medium term, there could be closures of operations, and the long term implications will be a reduction in tax revenue and a change in the vibrancy of the city. Mr. Lapp questioned how HRM will enforce the by-law, noting the Province has its enforcement in place. In closing, Mr. Lapp stated no one is forcing their staff to work in the smoking rooms nor forcing the customers to frequent them. He stated if the by-law passes, it will be the result of a crusade and not good government.

Mr. Stephen Risley, Ryan Duffy's

Speaking against the by-law Mr. Risley questioned what happens if there is no long term to reach the gain that is expected as a result of the by-law. He stated he is scared to death of bankruptcy if this by-law is adopted. He noted they have already experienced a huge loss of business during lunch and early evenings. Mr. Risley stated it is an individual person's decision and right to go into a smoking room, and it is his right to provide it. In closing, Mr. Risley stated it is not the municipality's job to get involved in what the Province has already determined to be acceptable.

Mr. Mike Milburn

Addressing Council regarding the by-law, Mr. Milburn stated he has worked in the hospitality industry for 15 years and opposes the ban. Smoking is matter of choice as is entering an establishment where there is smoke and working in such an environment. He noted bars and restaurants are privately owned and the current provincial legislation is sufficient. Mr. Milburn expressed concerns with businesses closing and the loss of employment that will occur as a result of this by-law. In closing, he urged Council to leave things the way they are.

Mr. Christopher Smith, Jamieson's Irish House and Grill, Dartmouth

Speaking against the by-law, Mr. Smith noted he is a non-smoker and his establishment is non-smoking. However, he noted government made smoking legal and is exploiting it in terms of tax revenue. Mr. Smith suggested the right thing would be to ban smoking outright but this will not happen. He stated the by-law will increase involuntary exposure outside of buildings as it pushes smoking outside. The provincial legislation at least provides protection indoors.

Mr. Brian Dougherty, The Old Triangle, Halifax

Speaking against the by-law, Mr. Dougherty made a plea on behalf of the hospitality industry which he stated is being singularly targeted. He noted that tobacco is a controlled legal substance. Two bars that he knows of in Ottawa have experienced a 20 to 30 percent drop in business since the ban was implemented. Mr. Dougherty stated this by-law will do irreparable damage and a total ban will result in job loss. He noted that in Ottawa, retail liquor outlets experienced an increase in business after the ban, and he suggested more children may be exposed to smoke in the home environment as their parents will do their entertaining at home. Mr. Dougherty stated the ban will redirect smokers into streets and homes. He questioned if Council was prepared to give a financial break to businesses having to clean up the mess created from butts in front of their establishments. He also questioned if HRM was going to enforce other by-laws as much as the hospitality industry will be expected to enforce this one. Mr. Dougherty noted he has not had one complaint about the existence of a smoking room in his establishment. In closing, he urged Council to vote against the by-law, noting there are more important issues to be addressed by Council.

Mr. Glen Faltenhine, Halifax

Mr. Faltenhine addressed Council, speaking against the by-law, stating he believes the provincial legislation provides protection and forcing the smoking outdoors will be harmful for children having to walk through it. He noted that he spoke to some business owners in New York City and they indicated with the ban there are an incredible number of people smoking outside and there is an extra cost to clean up after them. In closing, Mr. Faltenhine stated he would prefer to see legislators doing something to combat youth smoking.

Mr. Michael O'Brien, Thirsty Duck

Speaking against the by-law, Mr. O'Brien stated he is a non-smoker and tries to provide what he can for his customers which include a high number of smokers. He built a smoking room not thinking that Council would change its mind three months later. Mr. O'Brien stated he is very opposed to the by-law as he will lose business. In closing, Mr. O'Brien stated he cannot afford further restrictions that will hurt the industry.

Mr. Jim Isenor, Nova Scotia Lounge and Beverage Room Association

Speaking against the by-law, Mr. Isenor spoke about job loss. He noted that the lounge and beverage room industry in Nova Scotia is responsible for 20 percent of the sales at the liquor commission. In January 2003, when the provincial legislation was implemented, this dropped to 17.5%. If this was extended over the year, \$18 million would be lost as would 500 student jobs in HRM.

Mr. Dimo Georgakakos, Gus' Pub and Grill, Halifax

Speaking against the by-law, Mr. Georgakakos stated his pub has been in existence for 42 years, and this year has been the toughest to date. The pub recently spent \$8000 on a smoking room. He noted the vast majority of his customers are long-time smokers and people will have a choice whether or not to go into the smoking room. Mr. Georgakakos stated the provincial legislation permits this and it is adequate. He noted the proposed by-law will provide no choice at all. In closing, Mr. Georgakakos stated change has to be gradual and people have to be provided with a choice.

RECESS

Council recessed at 3:05 p.m. and reconvened at 3:25 p.m.

Ms. Paula Isenor, Restaurant Owner, Jeddore

Speaking against the by-law Ms. Isenor stated the provincial law protects children and non-smokers. She stated she knows her business and the effect this by-law will have on it: there will be job loss. In closing, Ms. Isenor stated smoking is legal and restaurant owners are not responsible to regulate it.

Ms. Kate Underhill, Halifax

Speaking against the by-law, Ms. Underhill stated she works in downtown Halifax and is already feeling a huge impact from the provincial legislation. She has experienced a 25% loss in tips and a cutback in hours. Ms. Underhill stated this area cannot be compared to the west coast as it is very different lifestyle. She noted she is a smoker who is trying to quit, and this should be her choice, not a ban, nor Council's. In closing, Ms. Underhill stated if this by-law is implemented, HRM will not have the unique establishments it now has, and she may no longer have a job.

Ms. Catherine Delesky, Porters Lake

Speaking against the by-law, Ms. Delesky stated she is a smoker and a bartender. She noted that smoking is a health issue and a ban will force smokers into the streets and create a bad atmosphere. Ms. Delesky stated she has already experienced a drop in tips, and, if this by-law is implemented, she will not be able to keep her job as it will not be enough to make a living. She further stated that smoking is a choice and the provincial legislation takes care of the issue and protects children. In closing, Ms. Delesky stated 85% of her patrons are smokers, and there are some smoke-free establishments for those who want them.

Ms. Kelly Day, Dartmouth

Ms. Day addressed Council stating she is employed at a pub and is a non-smoker. She stated she chose to work in that environment, noting her place of employment is a large area and not confined. Ms. Day supported the provincial legislation, but noted that business has gone down since its implementation. In closing, she stated that 800,000 children are exposed to smoke in their homes every day and nothing is being done to prevent that.

Mr. Al Zinck

Speaking in support of the by-law, Mr. Zinck stated secondhand smoke is a form of suicide in just a matter of time. He stated he is glad to get away from polluted air around him. Mr. Zinck stated the establishments do not care about smokers, only that they bring in money. In closing, he addressed the issues of the poison of cigarettes, their chemicals, and the diseases they cause.

Ms. Christine Bray, Herring Cove

Speaking against the by-law, Ms. Bray stated she believed the provincial regulations are strong enough to protect those that need it, and people should have the right of choice. She suggested if a product is so dangerous, it should be taken off the market. In closing, Ms. Bray stated money should be alternatively spent on education of children and parents, with regards to ill effects of smoking, and that the change be made from the ground up.

Councillor Hines requested that the present provincial legislation be provided to Council.

Mr. A. Panagiotakos, Dartmouth

Speaking against the by-law, Mr. Panagiotakos stated smoking is legal, therefore efforts should be made to go after the federal government to ban the sale of tobacco products rather than pursuing this by-law. Until that occurs, he suggested the hospitality industry be permitted to provide an environment for all patrons, noting the provincial legislation provides a choice to all customers. Another option he suggested was to require establishments to maintain an area of 75% non-smoking and 25% smoking for all hours of operation. Mr. Panagiotakos stated the ban will cause a financial catastrophe and result in many layoffs. In closing, he noted that he operated a 100% smoke-free restaurant in Dartmouth which would not have survived if not for the bar next door which permitted smoking.

Ms. Joan Jewers, Restaurant Association of Nova Scotia

Speaking against the by-law, Ms. Jewers stated the by-law does not address smoking, it addresses places where people cannot smoke. She urged Council to let businesses, customers, and employees make their own choices. She noted most restaurants chose to offer non-smoking sections before required by legislation. Ms. Jewers noted of the 550 food establishments of all types in HRM, 460 are smoke-free, and 90 permit smoking. Approximately \$2 million has been invested to date for smoking rooms. A survey of 40 operators in March 2003, found a 40% decline in total lunch sales since January 1, 2003. In closing, she urged Council not to waste any more scarce resources on this issue when the Province has already addressed it.

Mr. Don Webster, Fireside Restaurant, Halifax

Speaking against the by-law, Mr. Webster, former Chair of the CRFA, stated a resolution was passed in 1996 to refuse to take tobacco money. Mr. Webster spoke in support of the provincial legislation noting he has spent \$70,000 to accommodate all customers. He noted the hospitality industry is the most successful industry in Halifax. It is self-sustaining, not reliant on government funding, employs thousands of people, and was built by local entrepreneurs. Mr. Webster stated by pursuing this by-law HRM is taking a risky venture as there is evidence the by-law will have a negative effect on the industry. In closing, he stated Council needs to understand taxpayers are HRM's customers and Council has to take measures to meet the

needs of all customers. The hospitality industry and the residents can live with the provincial legislation.

Mr. Luc Erjavec, Canadian Food and Restaurant Association

Speaking against the by-law, Mr. Erjavec noted banning smoking in bars only moves it elsewhere. He stated it is clear that many who are in favour of the ban do not frequent the affected establishments nor do they understand the legislation. Mr. Erjavec noted the provincial legislation is the toughest in Canada and children and restaurant patrons will not be exposed to secondhand smoke. He stated adults can decide for themselves, and for Council to change its mind now is not fair to businesses. These businesses have yet to see the projected influx of business since the implementation of the provincial legislation, noting many are reporting drops. He noted that 37 bars in Ottawa closed following the implementation of a ban. In closing, Mr. Erjavec questioned if this by-law would have no effect on the industry, why would so many representatives of it be here.

Councillor Adams requested that the staff report clarify the issue of support from the tobacco companies to CRFA as there appears to be differing opinions.

Mr. Jim Iatrou, Bearley's House of Blues and Ribs, Halifax

Speaking against the by-law, Mr. Iatrou stated 80% of his customers are smokers and his daytime business has gone down over 30% since the implementation of the provincial legislation. He reviewed the community support provided by Bearley's. With respect to children, Mr. Iatrou agreed they should not be exposed to smoke, but stated they should not be in bars in the first place. He noted a study conducted in Ottawa by Labatts indicated that sales have decreased significantly, and British Columbia has relaxed their laws for economic reasons. Mr. Iatrou stated some establishments have spent \$30,000 or more on smoking rooms which now may become useless. He questioned the logic in this. In closing, Mr. Iatrou expressed shame on those who support a total ban without thinking through the effect it will have on industry.

Mr. Graham Read, Armdale

Speaking in support of the by-law, Mr. Read stated he is amazed people are still permitted to work in smoking conditions. He questioned why people are putting revenue ahead of public health. Mr. Read suggested establishments need to use some imagination and innovation to attract clientele rather than providing a place to smoke. He stated the forecasts of doom and gloom are being exaggerated and suggested if the viability of the business is so dependent on smokers, perhaps it should be left to those who can offer it without endangering employees and customers. Mr. Read stated permitting smoking after 9 p.m. does not do anything as it is still an unsafe working environment.

Ms. Roxanna Fleet

Speaking against the by-law, Ms. Fleet stated she is a waitress and the by-law will take money out of her pocket. She stated that smoke-free restaurants are fine, smoke-free bars are empty.

Mayor Kelly called three times for any further speakers in favour of or against the by-law. Hearing none, the following motion was put on the floor.

MOVED by Councillor Hetherington, seconded by Councillor Goucher, that the Public Hearing be closed. MOTION PUT AND PASSED UNANIMOUSLY.

A discussion ensued regarding the next steps, and it was agreed that the debate be deferred to next week and staff will prepare a report in response to questions raised to be circulated to Council on or before Monday, April 14, 2003. Mr. Paul Dunphy, Director, Planning and Development Services, noted that staff not in position to give advice or interpretation of the economic impacts and this would require much more in-depth analysis. Mr. McLellan added that staff will provide what they can on this issue.

The meeting adjourned at 4:35 p.m.

Jan Gibson
Deputy Municipal Clerk