



**7:15 PM: Ceremonial
Presentation in Honor
of Independence Day**

**TOWN OF MANSFIELD
TOWN COUNCIL MEETING
Monday, June 23, 2014
COUNCIL CHAMBERS
AUDREY P. BECK MUNICIPAL BUILDING
7:30 p.m.**

AGENDA

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| ROLL CALL | |
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FUTURE AGENDAS

EXECUTIVE SESSION

ADJOURNMENT

REGULAR MEETING – MANSFIELD TOWN COUNCIL
June 9, 2014
DRAFT

Mayor Elizabeth Paterson called the regular meeting of the Mansfield Town Council to order at 7:30 p.m. in the Council Chamber of the Audrey P. Beck Building.

I. ROLL CALL

Present: Kegler, Kochenburger, Marcellino, Moran, Paterson, Raymond, Ryan, Shapiro, Wassmundt

II. APPROVAL OF MINUTES

Mr. Shapiro moved and Ms. Moran seconded to approve the minutes of the May 27, 2014 meeting as amended. The motion passed with all in favor.

III. PUBLIC HEARING

1. Neighborhood Assistance Act Programs

The Town Clerk read the public hearing notice. Director of Planning and Development Linda Painter summarized the program and the four proposed projects. No comments were offered by the public. The public hearing was closed at 7:40 p.m.

2. Proposed Banners and Smoking Ban

The Town Clerk read the public hearing notice. Parks and Recreation Director Curt Vincente commented on the proposed changes to the Parks Rules and Regulations. Mona Friedland, Beech Mountain Road and member of the Mansfield Downtown Partnership Board of Directors, spoke in favor of a smoking ban in Town parks and urged the Council to develop a stand-alone ordinance for the Town Square which would also prohibit smoking. (Statement attached)

Ray Haddad, Conantville Road, objected to the prohibition of firearms in Town parks and urged the Council to delete the reference or to change the wording to "Firearms by permit only." Mr. Haddad also objected to the proposed prohibition of smoking in Town parks. (Statement attached).

Arthur Smith, Mulberry Road, encouraged Council members to review the materials he submitted and argued that Councilors currently do not have sufficient information to go forward. (Submitted documents will be included as a communication in the 6/23/2014 packet).

Brian Coleman, Centre Street, expressed his concerns that the smoking ban would be difficult to enforce.

The public hearing was closed at 8:00 p.m.

IV. OPPORTUNITY FOR PUBLIC TO ADDRESS THE COUNCIL

Wilfred Bigl, resident, town employee, member of the Housing Code Board of Appeals and the Emergency Management Committee, but speaking tonight as the Chair of the Commission on Aging, requested the Council install a seated bus stop on the north side of South Eagleville near the Community Center. Mr. Bigl noted many elderly residents use this bus stop. (Statement attached)

Alison Hilding, Southwood Road, requested help from the Council to extend the North Eagleville sidewalk to Southwood Road. She noted the neighborhood has lobbied for a sidewalk for over 20 years.

Arthur Smith, Mulberry Road, questioned how much money has been put aside for enforcement of a smoking ban in Town parks, and asked if the rule change would generate revenue. Mr. Smith urged members to be respectful of the opinions of others. Brian Coleman, Centre Street, objected to the revote on the Safe Routes Walkway and asked that a number of items be added to future agendas. (Statement attached)

June 9, 2014

V. REPORT OF THE TOWN MANAGER

In addition to his written report the Town Manager reported the Transportation Advisory Committee will look at the extension of the North Eagleville Road sidewalk to Southwood Road. Mr. Hart noted that the project is underway and is being run as a Town project, funded by UConn.

A copy of the fee schedule for the transfer station will be provided to Councilors. Staff will poll members regarding a date for a tour of the transfer station.

VI. REPORTS AND COMMENTS OF COUNCIL MEMBERS

Mayor Paterson thanked staff members for their efforts which allowed Price Chopper to open on time. The Mayor also attended the Annual Awards Dinner for the Chamber of Commerce at which a number of Mansfield businesses and individuals were honored. In response to a request by Ms. Wassmundt to review the Town Council Rules and Procedures and Roberts Rules of Order, the Mayor suggested this issue be referred to the Personnel Committee as they are already reviewing the use of electronic devices during Council meetings.

Mr. Ryan reported the Finance Committee meeting will be rescheduled.

Ms. Moran congratulated Greg Zlotnick of Zlotnick Construction for the company's ability to finish the Price Chopper store on time.

VII. OLD BUSINESS

3. Proposed Amendments to Parks Rules and Regulations; Program Sponsorship Signs and Banners and Smoking Ban

Mr. Shapiro moved and Mr. Ryan seconded to suspend the Town Council Rules of Procedures and move immediate consideration of the amendments to Parks Rules and Regulations. Motion passed with all in favor except Ms. Wassmundt.

Mr. Shapiro moved and Ms. Moran seconded, effective June 9, 2014, to accept the proposed amendments to the Parks Rules and Regulations, which amendments shall be effective 21 days after publication in a newspaper having circulation within the Town of Mansfield.

Council members discussed the need for more data regarding the impact of second hand smoke in open areas, monitoring and enforcement plans, the value of modeling healthy behaviors, clarification of language with regards to the use of nicotine patches, litter and whether the restriction burdens a specific group.

Ms. Wassmundt moved and Ms. Raymond seconded to postpone the vote on the motion until the next meeting. The motion failed with Kegler, Raymond and Wassmundt in favor and Kochenburger, Marcellino, Moran, Paterson, Ryan, and Shapiro against.

Mr. Ryan moved and Mr. Kegler seconded to amend the motion by striking Section O, Smoking and Use of Tobacco/Nicotine Products, from the original motion with the understanding that there will be an opportunity to discuss the issue at a future date. The motion passed with all in favor except Moran, Paterson, and Shapiro who voted against the motion.

The original motion, as amended, passed unanimously.

4. Neighborhood Assistance Act Programs

Mr. Shapiro moved and Mr. Ryan seconded to approve the following resolution:

June 9, 2014

Resolved, to approve the following projects for submission to the Connecticut Department of Revenue Services for inclusion in the 2013 Neighborhood Assistance Act Program: water harvesting project at the Mansfield Community Center; community playground at the Mansfield Community Center; energy efficiency/water conservation program for low and moderate income homeowners; and development of a new community clinic and support facility for United Services, Inc. The motion passed unanimously.

5. Storrs Center Update
No additional comments were offered
6. Community/Campus Relations
The Town/University Relations Committee will meet on June 10, 2014 at 4:00 p.m. The Town and UConn are continuing to work on a proposed business plan and Memorandum of Agreement (MOA) for the Community School for the Arts. The plan and MOA will be on the next Council agenda.
Proposals for an impact study regarding the UConn Next Generation have been received and are being reviewed. The Town Manager also reported that the Department of Transportation has agreed to support a study of the major transportation corridors to UConn.

VIII. NEW BUSINESS

7. FY 2014/2015 Nonunion Compensation and Benefits Changes
Personnel Committee Chair Toni Moran moved to approve the proposed changes in compensation and benefits for non-union regular staff, effective July 1, 2014. Supported by the Personnel Committee the recommendation parallels the Public Works settlement.
The motion passed unanimously.
8. Reappointment to Mansfield Downtown Partnership Board of Directors
Mr. Shapiro moved and Mr. Ryan seconded, to appoint Town Manager Matthew W. Hart to the Board of Directors of the Mansfield Downtown Partnership, for a term commencing on July 1, 2014 and expiring on June 30, 2017.
The motion passed unanimously.
9. Appointment to WRTD Board of Directors
Ms. Moran moved and Mr. Ryan seconded, to appoint Matthew W. Hart to the Windham Region Transit District, for a term commencing on June 9, 2014 and expiring on June 8, 2016, and Ms. Moran moved and Mr. Ryan seconded, to appoint Alexander Marcellino to the Windham Region Transit District, for a term commencing on June 9, 2014 and expiring on June 8, 2018.
The motions passed unanimously.
10. Independence Day Ceremonial Presentation Planning Subcommittee
Mr. Kochenburger, Ms. Raymond and Ms. Moran will present an Independence Day Ceremonial Presentation at the June 23, 2014 Town Council meeting.

IX. REPORTS OF COUNCIL COMMITTEES

Ms. Moran, Chair of the Personnel Committee, reported a time frame for the Town Manager's evaluation has been set and members will soon receive additional information on the process.

X. DEPARTMENTAL AND COMMITTEE REPORTS

No comments were offered.

XI. PETITIONS, REQUESTS AND COMMUNICATONS

June 9, 2014

11. E. Paterson/J. Goodwin re: Engineering and Science Building Environmental Impact Evaluation (EIE)
12. E. Paterson/J. Goodwin re: STEM Residence Hall Environmental Impact Evaluation (EIE)
13. Zoning Board of Appeals Legal Notice

XII. FUTURE AGENDA

Mr. Kegler and Mr. Ryan requested the bus stop structure suggested by the Commission on Aging be added to the July 14, 2014 agenda.

Ms. Moran requested additional information regarding smoking in public parks.

XIV ADJOURNMENT

Mr. Ryan moved and Ms. Moran seconded to adjourn the meeting at 9:40 p.m.

The motion passed unanimously.

Elizabeth C. Paterson, Mayor

Mary Stanton, Town Clerk

June 9, 2014

Public Hearing Remarks by Mona Friedland
June 9, 2014

I am speaking to you today as a resident of the Town of Mansfield and also as a member of the board of the Mansfield Downtown Partnership. I have watched, with enthusiasm, the evolution of Storrs Center and want it to be a welcoming and vibrant part of our town. In that vein, I feel it is essential that the Town of Mansfield establish an ordinance that prohibits smoking in the new Town Square.

It appears that the Town is considering a prohibition against smoking in all town parks and outdoor recreation facilities, which I also support. However, if this broader view of the issue becomes a barrier to its passage, I would suggest that the Town establish a stand-alone ordinance for the Town Square, which is a much more manageable space to monitor. I feel this should be acted upon quickly so that a smoke-free environment can be created which is welcoming to all.

In a letter to the Town Council dated March 27, 2014, I addressed the viability of this ordinance for the protection of the health of our residents. If young and old alike are to utilize the Town Square for fairs, festivals, art shows, musical performances and more, I feel such an ordinance is essential. We are all aware of the deleterious effects of secondhand smoke, and the upper courts have prevailed on challenges to these types of ordinances for outdoor public spaces.

Let us set a good example for other towns in the region, and protect the health of our residents, by restricting smoking in the new Town Square. Thank you.

*Mona Friedland
35 Beach Mt. Rd.
Mansfield, CT 06250
860 942-1512
monabf@me.com*

NOTES:

- 1) From USA Today, Nov. 14,2012- "Smoking bans quickly and dramatically cut the number of people hospitalized for heart attacks, strokes and respiratory diseases such as asthma and emphysema. "
- 2) From Web MD- "When you breathe in smoke that comes from the end of a lit cigarette, cigar, or pipe (side-stream smoke) or that is exhaled by a smoker (mainstream smoke), you're inhaling almost the same amount of chemicals as the smoker breathes in. Tobacco smoke contains more than 4,000 different chemical compounds, more than 50 of which are known to cause cancer.
- 3) From Global Advisors Smokefree Policy Website- Outdoor smoking is a public health hazard. Secondhand smoke (SHS) exposure outdoors can harm nonsmokers, plus smoking materials harm the environment. Concentrations of outdoor secondhand smoke can be as high as indoor concentrations, depending on where the smoking is taking place and the amount of secondhand smoke present.

Throughout the United States, hundreds of local governments have enacted smoke-free air legislation for outdoor areas, especially recreational facilities like parks, playgrounds, and beaches, as well as school grounds and near buildings.

U.S. Centers for Disease Control and Prevention (CDC) supports smoke-free parks. On August 6, 2012, the U.S. Centers for Disease Control and Prevention (CDC) launched the "Protecting Your Children from Tobacco" webpage, which provides recommendations to parents on how to help children stay tobacco-free. Included in the category "What your Community Can Do to Help Prevent Youth Tobacco Use" is to "Ban smoking in public places—such as workplaces, schools... and parks".

Outdoor smoke-free ordinances have been upheld in court. The US District Court of Appeals for the 8th Circuit, which represents Eastern Missouri, upheld the lower court's dismissal of a lawsuit involving a plaintiff who challenged a city ordinance in Clayton, which prohibits outdoor smoking in city parks. Both court decisions supported the right of municipalities to pass ordinances restricting smoking in outdoor public places. (November 8, 2012 court decision)

Prohibitions:

G. Use or possession of explosives, firearms and/or fireworks.

Regarding the proposal lettered G, I request that the term firearms be removed and an amended statement be added to state: "Firearms by permit only." If you prefer, you may drop this entirely since that is already covered by Connecticut Statutes.

Regarding proposal lettered O.

O. Smoking and use of tobacco/nicotine products.

I preface this by stating that I am not a smoker. I quit in 1979.

Smoking is a legal activity and should not be the subject of arbitrary prohibition by this or any other town council. Connecticut has its roots in the tobacco industry and remains a major producer of the leaf to this day. As a non smoker, I can appreciate the desire of others to breathe air that is unpolluted by smoke but we are talking about an outdoor area, well away from the requirements of anyone else being forced to remain in one spot near a smoker. You are free to move about and seek cleaner air just like you are free to move away from an area where natural rotting vegetation is unpleasant to smell.

It is an outrageous act of sheer bullying by this council to ban a legal activity such as smoking. And what about the poor resident who has decided to quit smoking and is using the nicotine patches, which you are now ready to ban in town parks. The wording of your proposal now forbids medical treatment to curb smoking while in a town park.

Submitted by Ray Haddad 6/9/14

The matter of enforcement now rears its head. Someone sees a smoker lighting a tobacco product at Mt Hope Park and does what? Calls the police? With a 20 minute estimate response time to a murder in my home, what can we expect for response times for this heinous crime? Who will police this? State police? Have you bothered to ask them about that?

You are proposing a law that bans a legal substance and is impossible to enforce. I hereby request that any member of this council propose striking item O and replacing it as follows:

O. Smoking when group activities involving children in organized sport or other organized activity is prohibited except in a smoking area designated by the organization governing the activity.

Let's put this on the people who have something at stake. People don't want smoking around their children, fine. Let them handle it. Set up a downwind area where smokers can gather. Otherwise, if you are out in the open at a park, move away from the objectionable smell just like you would walk away from a skunk.

Common sense, my dear councillors. Please, if you have none, buy some.

Presentation to Town Council

Over the past four (4) years, the Mansfield Commission on Aging has been actively advocating for the installation of a seated bus shelter, and bus stop at the westbound stop located on the North side of South Eagleville Road, in front of the Community Center. This stop at one time had no paved section and was very unstable under foot. Along with others, we were successful in getting this bus stop paved so that seniors with disabilities had a solid paved area to disembark onto.

We have on several occasions both in person and in a letter drafted by the Commission, requested to have a seated bus shelter erected at the West Bound Community Center stop. To date this has not occurred.

We believe that most of the westbound riders are either going to Glen Ridge, Wrights Way, The Mansfield Senior Center, or Juniper Hill Village. Most of these riders are elderly or have disabilities and would benefit from a seated bus shelter at this bus stop.

I personally have seen an elderly person, with a walker, who was sitting on the paved portion of the bus stop waiting for the West bound bus. I am almost sure that he was not the first and would not be the last to do this.

The Commission on Aging would strongly encourage the Town Council to act upon this request to erect a seated bus shelter at the bus stop in front of the Community Center as soon as possible.

Submitted by Wilfred Bigl June 9, 2014

June 9, 2014

Dear Town Council,

During the May 27th council meeting, the majority party clearly preplanned and orchestrated a motion to add a revote on the safe routes walkway (Southeast School) to the agenda without consulting, notifying or involving the minority party in anyway. The mayor said that there wasn't time to do so because it had to be done by Friday May 30th. I say hog wash! According to the Chronicle the town made a request for an extension ahead of time. The minority council members were blindsided with an agenda item that they had no knowledge of or time to prepare for. The public (except for a few who were probably notified ahead of time) was also intentionally left out of due process. This is a travesty to fair and transparent government. We have hit a new low in how we govern in the Town Mansfield. This is truly is a sad day for Mansfield, we have a one party government like the few remaining communist nations of the world.

Now that we are in the business of doing redo's I would like to request some items be added to the future agendas of our council meetings.

Storrs Center: 5 stories instead of 4, I would like a redo on this and request that one story be removed from all the buildings higher than 4 stories.

Storrs Center: A 3 million dollar loan from EDR to the town of Mansfield at 8% disguised as a tax abatement. I would like a redo on this and request that this go to referendum to be voted by the tax payers as it should have been.

We had Tax increase budget year 2013-2014 despite a referendum asking for a zero increase. I want a redo with a zero tax increase as the voting public requested.

Brian Coleman



**Town of Mansfield
Agenda Item Summary**

To: Town Council
From: Matt Hart, Town Manager *MWH*
CC: Brid Grant; UCONN Dean of Fine Arts; Maria Capriola, Assistant Town Manager; Curt Vincente, Director of Parks & Recreation; Jay O'Keefe, Assistant Director of Parks & Recreation
Date: June 23, 2014
Re: Collaboration with Community School for the Arts (CSA)

Subject Matter/Background

Town and University staff presented this item to the Town Council at its May 27, 2014 meeting. We have completed our review of the proposed collaboration with UCONN and have prepared the attached business plan and Memorandum of Understanding (MOA) for the Council's consideration.

To recap our earlier discussion, the UCONN Community School for the Arts (CSA) has a long history of providing art and music education to the larger Mansfield and University community. The Mansfield Parks and Recreation Department (MPRD) offers art and music programs at only an introductory level, knowing that the UCONN CSA meets the broader needs of the community.

Specifically because they are looking to re-define their mission for community based programs, UCONN has asked the MPRD to consider providing the popular CSA programs in a collaborative manner. UCONN believes that the CSA program could be managed more effectively with an experienced partner like the MPRD. The MPRD has a broad foundation of programming and is well positioned to work directly with the UCONN CSA to continue to meet the needs of area residents.

As initially conceived, the Town and the University would execute the attached Memorandum of Understanding (MOU) to outline the parties' responsibilities during a two-year trial period (through June 30, 2016). Under the MOU, UCONN would continue to provide funding, staffing and the facility, and the MPRD would handle program registration and fee collection. Program profits would be shared equally by the CSA and the MPRD. At end of the trial period, the Town and the University would evaluate the performance of the partnership and determine whether the Town would be in a position to take over the administration of the program for the long-term or if any other changes would be desirable.

In staff's assessment, this collaborative effort to provide art and music programming would benefit both the CSA and the Town, for the following reasons:

- CSA offerings would enhance the MPRD's arts and music programming
- Fee-based programs provided on a seasonal or semester basis would be run on a registration demand basis only, thus limiting the financial burden to either organization
- Opportunities exist to grow arts and music programming
- At least for the near term, UCONN's CSA is willing to cover any losses in the program; program profits would be equally shared between the University and the MPRD
- The collaborative effort would include an evaluation at the end of the first year and the conclusion of the two-year term to allow for assessment and program adjustments.
- The MPRD currently has a sophisticated registration software system in place that is used to handle registration for programs, both online and in office, allowing for efficient program management. The software registration system could readily accommodate the CSA programs.
- UCONN would continue to host the CSA at its Depot campus facilities throughout the two-year term
- The MPRD has a broad marketing plan in place to promote programs, which has proven to be successful. Cross marketing CSA programs with existing community programming would be mutually beneficial.

Financial Impact

The UCONN CSA operates as a fee-based program much like the programs run by the MPRD. Staff has reviewed the operations and financials of the CSA program to determine its relative strengths and areas for improvement. The collaborative effort between the CSA and the MPRD would be arranged in a way to limit any financial risk to the Town. The MPRD's programs are run through the 260 fund on a self-sustaining basis.

Legal Review

The Town Attorney has reviewed and approved the form of the MOU with UCONN.

Recommendation

As stated above, staff has reviewed the operations and financials of the UCONN CSA. We believe that the proposed partnership is feasible and would provide the community with a high level of art and music programming in a cost effective manner.

If the Town Council concurs with staff's recommendation, the following motion is in order:

Move, effective June 23, 2014, to authorize the Town Manager to execute the proposed Memorandum of Understanding with the University of Connecticut regarding the Community School of the Arts for a term to run from July 1, 2014 through June 30, 2016.

Attachments

- 1) Business Plan - Community School for the Arts: Opportunities and Challenges



Mansfield
Parks & Recreation
Family, Fitness & Fun!

BUSINESS PLAN

COMMUNITY SCHOOL for the ARTS (CSA)

Opportunities and Challenges

Curt Vincente, Director of Parks & Recreation
Jay O'Keefe, Assistant Director of Parks & Recreation

June 2014

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I. INTRODUCTION

The UConn Community School for the Arts (CSA) has a long history of providing art and music education to the larger community. The Mansfield Parks and Recreation Department (MPRD) also offers art and music programs at an introductory level. MPRD intentionally limits its art and music programming to an introductory level knowing that the UConn CSA meets the broader needs of the community.

Specifically because they are looking to re-define their mission for community based programs, UConn has asked the MPRD to consider providing the popular CSA programs in a collaborative manner. UCONN believes that the CSA program could be managed more effectively with an experienced partner like the MPRD. The MPRD has a broad foundation of programming and is well positioned to work directly with the UConn CSA to continue to meet the needs of area residents.

As initially conceived, the Town and the University would negotiate a Memorandum of Understanding (MOU, see Section VI) to outline the parties' responsibilities during a trial period (through June 30, 2016). UConn would continue to provide funding, staffing and the facility, and the MPRD would handle program registration, fee collection, and marketing. Program profits would be shared equally by the CSA and the MPRD. At end of the trial period, the Town and the University would evaluate the performance of the partnership and determine whether the Town should continue the partnership for a further specified period of time, dissolve the partnership, work towards taking over the administration of the program for the long-term or if any other changes would be desirable.

This preliminary business plan will identify opportunities and challenges of operating the CSA as a satellite art and music program and examine other options to best meet the needs of current and future area residents.

II. MANSFIELD PARKS and RECREATION EXISTING PROGRAMS

The Mansfield Parks and Recreation Department has a strong history of providing a broad range of programs to area residents. MPRD programs are managed within the Town's Recreation Program Fund and follow the Town's Fee Policy. MPRD programs are self-supporting, with direct costs and most indirect over-head costs covered by fees and charges. Limited subsidies are provided by the Town for fee waivers and facilities.

MPRD program participation in fiscal year 2012-13 exceeded 15,900, which included over 2,700 programs. There are approximately 68 percent residents and 32 percent non-residents participating in annual Parks and Recreation programs.

A sophisticated registration software system, entitled *VT Systems RecTrac*, is used to register participants both online and in office. This system allows for highly efficient management of programs by supervisors and the MPRD administration.

Approximately 50 percent of MPRD registrations occur online. The following is a sampling of MPRD art and music related programs that have been offered in the past (list not inclusive of dance/exercise programs, some of which might be considered artistic related):

| | |
|----------------------------|-------------------------|
| Acting Class | Introduction to Welding |
| African Music | Jewelry |
| Art Appeal | Junk Yard Artists |
| Basic Digital Photography | Knitting |
| Basic Painting and Collage | Landscape Photography |
| Basket Weaving | Mosaics |
| Beginning Pastels | Music Together |
| Candle Making | Painting and Collage |
| Casual Portrait | Photography |
| Clay Jewelry | Pottery |
| Creative Theater | Pottery Camp |
| DaVinci Kids | Scrap Booking |
| Drawing | Theatrical Puppetry |
| Experimental Art | Theater Workshops |
| Family Music | Wacky World of Wire |
| Holiday Crafts | Water Colors |
| Introduction to Flute Play | Young Picassos |

III. COMMUNITY SCHOOL for the ARTS COLLABORATION - OPPORTUNITIES

Opportunities don't often present themselves in a new venture such as the collaboration of major programs. There are a number of areas where collaboration will provide some opportunities to strengthen the foundation of the CSA and expand the program base of the MPRD.

Facilities: Although the MPRD has a proven successful program operation, there are facility limitations, which have caused some long-term concerns about future program growth. Programs often have to be scattered around town in order to find space to offer related programs. Scattering of programs makes for inefficient program supervision. A possible off-site, satellite program operation at the CSA could solve short-term program facility issues and provide opportunities to consolidate similar programs into one location. Longer term facility considerations would need further evaluation, but the facilities at the Depot Campus could and should be one option for the long-term. At some point, the buildings currently housing the CSA will need a higher level of maintenance and/or renovation to properly meet the needs of facility users. UConn has indicated its willingness to provide facilities at the Depot Campus in the short-term which will enable the existing CSA program to thrive with proper support and supervision. UConn is hoping to develop stronger links between CSA and its music department. Access to facilities in the School of Fine Arts' buildings is also under consideration. Longer-term access to these facilities could be negotiated. Consideration can also involve the high school's music and art facilities. The E.O. Smith music and art facilities have been lightly used by the community and the school's administration has indicated a willingness to consider expanded access. In addition, similar facilities exist at the Mansfield Middle School which are rarely used by the larger community.

Marketing: The MPRD produces seasonal program brochures which are distributed both online through the Town and department websites and also via direct mail. The direct mail approach continues to be the most popular and successful method to market all programs and services of the MPRD. This brochure reaches over 22,000 households in Mansfield and surrounding towns. CSA marketing efforts would benefit greatly from being included in the brochure. A consolidated effort to promote program offerings and cross-market to existing MPRD participants will undoubtedly provide new opportunities to increase program participation. In addition, other traditional methods of marketing that have proven successful for MPRD will be utilized, including radio, website links, and email.

Consolidation: Both the MPRD and the CSA are operating similar types of programs. Generally speaking, MPRD tends to offer art and music programs on an introductory level and CSA tends to offer more specialized and higher level programs. A consolidated effort to operate these programs will provide an opportunity for efficiency. A combined effort of the strengths of each program will

enable the program as a whole to be more effective at serving its participants. MPRD has a strong marketing program and registration system, while the CSA has access to numerous instructors and educators and more than adequate facilities.

IV. COMMUNITY SCHOOL for the ARTS COLLABORATION - CHALLENGES

There are several challenges that have been identified through an initial evaluation of a potential collaboration between UConn's CSA and the Town. These challenges are manageable and can be clearly defined in the Memorandum of Understanding between both parties.

Re-defining the CSA Mission: UConn has recently indicated its desire to move away from providing community based programming, particularly for non-college aged students. However, UConn remains committed to support a successful transition of the CSA to the Town. None-the-less, it is important that CSA's mission be re-examined with a focus on services during the transition. The current MPRD mission of, *"enhancing the quality of life for the total community by providing a variety of leisure opportunities, promoting health and wellness, increasing cultural awareness, protecting the natural resources, and developing the recreational needs and interests of area residents"* is consistent with the intent of this collaborative effort.

Training: The staff of the CSA will continue to be employed by UConn and will thus be required to follow the policies and procedures established by UConn. A successful collaboration will require staff of the program to understand and follow procedures of both the Town and UConn. The MPRD conducts general orientation training and customer service training for all of its employees. Support staff of the CSA will also need to undergo software system training in order for onsite registration services to be effective. Management of both parties will work closely together to ensure proper and thorough training.

Timing: A successful collaboration will require coordinated timing of services and program offerings. CSA program offerings will need to coincide with the marketing of general MPRD programs. A short window of opportunity exists for program planning to occur for the fall season.

V. MPRD/CSA PRELIMINARY BUSINESS PLAN

Product and Service Description

Community based programs offer genuine customer service and deliver program services in a welcoming, non-threatening common ground, for people of all ages, abilities and social economic classes. The MPRD has a proven record of delivering quality services and building a positive community atmosphere. Providing sustained services and programs that bring the community together and benefit the active lifestyles of area residents has added to the quality of life.

Dedicated spaces and programming for art and music education for both group and individual instruction will enhance opportunities for areas residents to experience important lifelong learning and skills. By expanding current space and services to meet existing and future art and music expectations for area residents in the target market the CSA will meet local needs while maintaining its core mission of providing community services.

To reflect the target market needs of children and adults the CSA programs will include provision of an abundance of art and music program offerings. In addition to group classes, private instruction has been popular. An attractive advantage of the CSA is its centralized location and specialized program space.

Management and Organization

Chief Executive Officers: Matthew Hart, Town Manager and Curt Vincente, Director of Parks and Recreation for the Town and Sally Reis, Vice Provost for Academic Affairs, and Brid Grant, Dean of the School of Fine Arts at UConn

Chief Financial Officers: Cherie Trahan, Director of Finance and Curt Vincente, Director of Parks and Recreation for the Town and Colleen Bridgeman, Assistant Dean and Brid Grant, Dean of the School of Fine Arts for UConn

Marketing Team – Curt Vincente, Director of Parks and Recreation, Jay O’Keefe, Assistant Director of Parks and Recreation, and Amanda Wilde, Member Service Coordinator for the Town and Brid Grant, Dean of the School of Fine Arts, Linda Neelly, and Eva Davies for UConn

CSA Program Supervisor: Linda Neelly for UConn

Human Resource Team: Maria Capriola, Assistant Town Manager and Jay O'Keefe, Assistant Director of Parks and Recreation for the Town and Linda Neelly for UConn

Advisory Network

Mansfield Town Council
Mansfield Arts Advisory Committee (AAC)
Mansfield Recreation Advisory Committee (RAC)
CSA Board of Directors
School of Fine Arts Music Department
Mansfield Parks and Recreation Department

Partnering

Aside from the collaboration between the Town and UConn as defined by the MOU in Section VI, other potential partners for facility access and potential program staff include E. O. Smith High School Music and Art Department and Mansfield Middle School Music and Art Department.

Trends

Research has indicated that art and music education at all ages facilitates learning other subjects and enhances skills that children inevitably use in other areas. According to researchers at the University of Michigan, *"The arts have a power to deepen and extend our understanding of ourselves and the world. Music plays a key role in the moral, as well as aesthetic formation of human virtue, character, and sensibility (Carr 2005). It has also shown to increase mental discipline, patience, cooperation (Johnson 2004). Often, study of the arts is seen as a means for increasing student performance in more legitimate skill and subject areas."*

Demands of Target Market

Previous CSA programming has indicated a continued demand for art and music programming by area residents. Classroom and workshop areas with dedicated spaces for group instruction and private lessons are available at the CSA facilities on the Depot Campus. These spaces have not been used to capacity thus program participation growth is possible without additional facility cost. Although CSA participation numbers have fluctuated in recent years, economic and staffing factors may have contributed to these fluctuations. None-the-less, interest in group and private lessons in art and music remain high in the area.

Company Description

Under the guidance of the MOU, UConn and the Town will collaborate on a team approach to operate the CSA. The success of the CSA to date is arguably due to the quality instruction that participants have been afforded. This collaborative effort will bolster the strengths of both organizations to offer quality service to potential customers. An MPRD satellite location will work to expand the existing MPRD

mission by providing more opportunities for lifelong learning. Service delivery by both organizations has been healthy and this joint venture will stress excellence in customer service, provide a friendly atmosphere and maintain a loyal customer following.

It is vitally important that a customer focused environment be maintained. This has been successfully created and extremely well received at the Mansfield Community Center where most of MPRD's programming occurs. This will be achieved through staff training, customer satisfaction surveys, implementation of a member feedback program and management's active involvement in the operations.

Marketing Plan

- Market Research - Limited local information is available on the potential market for participants in art and music education at the community level. CSA has recorded from 1,500 to over 2,000 participants per year in recent years in art and music specific programs. MPRD has recorded over 15,900 participants in fiscal year 2012-13 for a broad range of programming types. A detailed survey would need to be conducted to determine art and music specific interest levels at certain pricing levels. However, a scientific survey done by a professional research firm could be costly and might not prove to be useful in this case. Existing data on previous participation levels for the CSA program indicate strong interest in art and music education in the area.
- Economics – The local economy, while it may differ slightly from the national economy, continues to see slow recovery.
- Total market size - Using Mansfield and the surrounding towns of Ashford, Coventry, Tolland and Willington, there is an approximate population of over 62,600. As indicated earlier, MPRD currently distributes its seasonal program brochure to over 22,000 households in these towns plus the Town of Columbia, which now sends some of its high school students to E.O. Smith High School.
- Target market – Age 3 and over
- Current demand in target market - As indicated previously, CSA programming has indicated a continued demand for art and music programming by area residents.
- Target market trends – As indicated earlier, research has indicated that art and music education at all ages facilitates learning other subjects and enhances skills that children inevitably use in other areas. Communities such as Mansfield continue to desire a variety of options for lifelong learning. Art and music education remain high on the list of desired program options.

- Barriers to entry in the market - Cost may prove to be a factor that could prevent participation. Highly priced programs potentially limit the market. The CSA has a history of providing scholarships to participants with low income status. These scholarships are funded by donations. The Town has a long history of providing fee waivers to low income residents. Initially, if at all, the CSA program under this collaboration should not be included in the Towns Fee Waiver Ordinance, since the Town is in the midst of implementing recent changes to the Fee Waiver Ordinance, which will require detailed evaluation in the coming year.
- Competition - There is very limited competition for art and music education in the area. It is expected that CSA and MPRD would dominate the market area for specific art and music programming. The following are the known private art and/or music programs:
 - Mansfield Academy of Dance - Mansfield
 - Dance Express – Tolland
 - Can Dance Studio – Coventry
 - Saw Mill Pottery – Putnam
 - CT Art School – South Windsor
- Planned Promotion Avenues – The CSA/MPRD combined program would be promoted primarily through the broad distribution that currently exists with the MPRD seasonal program brochure. In addition, both organizations would maintain existing websites, with links to each. Both organizations also maintain email lists which would be used for direct communication. MPRD maintains a radio advertising contract and would supplement advertising for memberships and programs with additional promotion for the CSA programs. Finally, cross marketing via existing program participants will benefit each organization.
- While registrations for all classes will be done through MPRD, scheduling of classes and day to day inquiries will be dealt with by CSA staff on the Depot Campus.

VI. MEMORANDUM OF UNDERSTANDING

A detailed Memorandum of Understanding (MOU) can be found in Appendix A of this document. This MOU is designed to define the responsibilities of both UConn and the Town with regards to the CSA program. This MOU was developed in a collaborative manner with legal advice from both parties and will serve as the formal guide under this CSA partnership.

VII. COMMUNITY SCHOOL for the ARTS FACILITIES

The CSA has developed a number of instructional spaces, classrooms, and workshops at their main location at UConn's Depot Campus. Additional space has been utilized on occasion through events and recitals at the School of Fine Arts on the Main Campus. The classrooms and workshop space at the Depot Campus have been more than adequate to meet the programming demands. UConn Facilities Management has performed general repairs and maintenance of the CSA facilities. During the collaboration and as identified in the MOU, UConn facilities on the Depot Campus will continue to be used. This use is critically important for the continuation of existing programs in the short term. Longer term use the Depot Campus facilities can be negotiated during the annual review as part of the evaluation identified in the MOU. It is suggested that possible future programming space can be supplemented at the High School, Middle School and/or other existing Town and University buildings.

VIII. START-UP AND OPERATIONAL COSTS

As identified in the MOU, UConn will continue to manage the day to day expenditures and payroll for the CSA program. Therefore, there are no specific start-up costs associated with the collaboration. Business of the CSA will continue as usual with the exception that MPRD will collect registration fees and reimburse UConn on a quarterly basis for the expenditures associated with the operation of the CSA. Per the MOU, UConn will absorb any losses and profits will be equally shared. MPRD will incur some expense related to marketing, training and registration collection and these expenses will be factored into the quarterly reporting of CSA's operation. MPRD expenses will be determined by a percentage of over-all registration/programming offered. See Appendix B for a detailed three year profit and loss statement from the CSA.

IX. SUMMARY/CONCLUSIONS

The Community School for the Arts, currently operated by UConn, has provided successful art and music programs to the community for many years. The program is well received by the community and has a positive reputation for providing a high level of programming and instruction. The Mansfield Parks and Recreation Department has a strong history of providing a broad range of programs to area residents.

UConn recognizes the important role that the CSA provides for area residents but has indicated its desire to focus more on programs that serve college age students directly in line with its core mission as an institution of higher learning. UConn has approached the Town because it believes that the CSA program could be managed more effectively with an experienced partner like the MPRD. The MPRD has a broad foundation of programming and is well positioned to work directly with the UConn CSA to continue to meet the needs of area residents.

It is necessary for the CSA to have a business model approach to its operation in order to maintain its self supporting focus. The successful management of a business-like operation should always embrace opportunities to expand. Engaging in this partnership will allow MPRD to examine the potential for new revenues and help to sustain a successful and popular program.

A collaborative effort between UConn and the Town is a positive step to continue the programs and services the CSA has developed. The attached MOU defines the relationship and responsibilities between both parties. The risk is non-existent for the duration of this MOU and the potential benefits are high.

This report includes initial components of a business plan designed to operate the Community School for the Arts in a collaborative manner as defined by the MOU between the Town and UConn.

APPENDIX

A – Memorandum of Understanding

B – CSA Profit/Loss Statement – 3 year
Historical

APPENDIX A – Memorandum of Understanding

MEMORADUM OF UNDERSTANDING

between
University of Connecticut
and
Town of Mansfield

THIS AGREEMENT (hereinafter "Agreement") is made and entered into as of the ___ day of _____ 2014, by and between THE UNIVERSITY OF CONNECTICUT, a constituent unit of the state system of public higher education ("UConn"), and the TOWN OF MANSFIELD, a municipal corporation ("Mansfield"). UConn and Mansfield are each sometimes referred to herein individually as a "Party" and collectively as the "Parties."

WHEREAS, UConn's School of Fine Arts currently administers the Community School of the Arts (hereinafter referred to as "CSA"), a fine arts program offering non-credit classes in musical and visual arts to students of all ages, from infants to seniors, on grounds located within the Town of Mansfield; and

WHEREAS, Mansfield currently administers its Parks and Recreation Department to provide a variety of leisure opportunities to residents of the Town of Mansfield and the surrounding communities; and

WHEREAS, Mansfield and UConn mutually wish to transition the administration of CSA from UConn to a program administered solely by Mansfield over the course of several years, the exact length of which is to be determined during the transition period; and

WHEREAS, the Parties have agreed that such transition will occur only if UConn and Mansfield can mutually develop CSA into a financially-sustainable program administered by Mansfield at the end of a transition period of several years, the exact length of which will be determined mutually by the Parties as this Agreement progresses; and

WHEREAS, the Parties wish to memorialize in this Agreement their respective contributions to the transition plan.

NOW THEREFORE, for the promises and considerations set forth herein, UConn and Mansfield do hereby agree as follows:

1. Purpose; Term and Termination.

- (a) The purpose of this Agreement is to set forth the obligations of the Parties hereto.
- (b) The term of this Agreement shall commence on the date upon which this Agreement is approved as to form by the Office of the Attorney General and

run through June 30, 2016. Thereafter, this Agreement shall be subject to annual renewal as specified in Section 6 of this Agreement.

- (c) Either Party may terminate this Agreement at any time. However, any such termination shall not become effective until June 30 of the then current Fiscal Year. The Parties agree that for purposes of this Agreement a fiscal year runs from July 1 through June 30. Both Parties agree that in the event either Party terminates this Agreement, each Party's respective rights and responsibilities do not cease until June 30 of the Fiscal Year in which the notice to terminate was given.

2. UConn Agrees To:

From the date this Agreement commences through June 30, 2016, UConn agrees, at its sole expense to:

- (a) Continue to provide the current space at UConn's campus in Storrs, Connecticut to operate CSA classes and programs, or equivalent space as mutually agreed to by the Parties;
- (b) Continue to maintain the facilities used by CSA on UConn's campus, including structural maintenance, provision of all utilities, insurance and inclement weather measures;
- (c) Continue to provide teachers and instructional staff for all CSA classes and programs;
- (d) Order and pay for all supplies for CSA classes and programs;
- (e) Continue to market through direct mail seasonal program brochure and include Mansfield Parks and Recreation Department logo and website link for cross promotion;
- (f) Provide the payroll administration of all teachers for CSA classes and programs;
- (g) Appoint an Academic Program Coordinator to administer CSA;
- (h) Appoint the Academic Program Coordinator as a UConn employee and pay the employee's salary and associated benefits;
- (i) Provide office space to the Academic Program Coordinator;
- (j) In conjunction with Mansfield, jointly supervise the Academic Program Coordinator;

- (k) Cover all costs, including wages, of student labor associated with CSA;
- (l) In the event that class fees collected and reimbursed by Mansfield as outlined in Section 3(c) and 3(d) of this Agreement are not sufficient to cover the costs of CSA classes and programs, absorb the burden of the financial loss to CSA;
- (m) Review this Agreement with Mansfield annually in accordance with Section 6 of this Agreement; and
- (n) At the conclusion of this or a future Agreement, provided that, to the reasonable satisfaction of Mansfield, CSA has been successfully transitioned into a financially-sustainable program capable of being administered solely by Mansfield, release to Mansfield the full administration of CSA, pursuant to an amendment to this agreement or another written agreement negotiated and executed before said date of release.

3. Mansfield Agrees To:

From the date of commencement of this Agreement through June 30, 2016, Mansfield agrees to:

- (a) Conduct all student registration for CSA classes and programs;
- (b) Include all CSA classes and programs in the seasonal activities brochure published by Mansfield's Parks and Recreation Department with website link for cross promotion;
- (c) Collect all class fees from student participants;
- (d) Provide all fees collected from student participants to UConn as reimbursement for the costs of teacher and administrator salaries and operational costs for all CSA classes and programs, less any expenses incurred by Mansfield through publishing and registration of CSA classes and programs;
- (e) In conjunction with UConn, jointly supervise the Academic Program Coordinator;
- (f) Review this Agreement with UConn annually in accordance with Section 6 of this Agreement; and
- (g) At the conclusion of this Agreement, provided that to the reasonable satisfaction of Mansfield, CSA has been successfully transitioned into a financially-sustainable program capable of being administered solely by Mansfield, assume from UConn the full administration of CSA, pursuant to an

amendment to this Agreement or another written agreement negotiated and executed before said date of release.

4. **Both Parties Agree To:**

From the date of commencement of this Agreement through June 30, 2016, the Parties agree to:

- (a) Review this Agreement in April 2015 to determine the desired continuation and terms of this Agreement for CSA for the 2015-2016 Fiscal Year, including, but not limited to:
 - i. The source of funding for the Academic Program Coordinator salary and fringe rate for the upcoming Fiscal Year;
 - ii. The administration of CSA teacher and support staff hiring and salaries;
 - iii. The delegation of administrative support for CSA;
 - iv. The space in which CSA classes and programs will be conducted;
 - v. Future transition plans, needs and anticipated timelines; and
 - vi. Any other issues that require discussion during the course of administering CSA through its transition during the first year of this Agreement.
- (b) Share equally in a 50%-50% split between UConn and Mansfield any profits generated from CSA, less any expenses incurred by the parties;
- (c) Share open accounting of CSA expenses and revenues;
- (d) In accordance with UConn's current practice with regard to CSA, cancel any scheduled CSA classes or programs with enrollment that is evidently below a threshold sufficient to cover the costs of the teacher salaries and operational costs.

5. **CSA Academic Program Coordinator and Curriculum.**

- (a) As stated in Section 2(g), UConn agrees to appoint the Academic Program Coordinator as a UConn employee on a one-year contract and pay the employee's salary and associated benefits.
- (b) For the Fall 2014 academic semester, the current CSA curriculum of classes and programs will continue as now in place.
- (c) One of the main duties of the Academic Program Coordinator will be to review and possibly revise the curriculum of CSA, with anticipated changes commencing as early as the Spring 2015 academic semester. The curriculum

will be revised with the ultimate goal of transitioning CSA into a financially-sustainable program administered by Mansfield.

6. **Annual Review.** The Parties agree to review this Agreement and their obligations under it in April 2015 and then annually thereafter during the month of April of each year this Agreement is in effect. Annual renewals of this agreement will be entered into by May 1 of each subsequent year. In the event that either Party wishes to modify or amend this Agreement, that Party must deliver to the other Party a written notice of the terms proposed to be modified or amended by May 1 of each year. This Agreement may only be modified or amended by the execution of a written instrument, signed by both Parties and approved as to form by the Office of the Attorney General.
7. **Delays.** The Parties' respective obligations hereunder (other than the payment of money) are subject to reasonable delays for force majeure.
8. **Default.** If at any time either Party shall default in the performance or observance of any of the terms, covenants, conditions or agreements of this Agreement and such default shall not be cured within thirty (30) days after delivery of notice thereof from any non-defaulting Party to the defaulting Party (or if such default is capable of cure but not reasonably capable of cure within such thirty (30) day period, if the defaulting Party fails to commence a cure within such thirty (30) day period and diligently and continuously prosecute such cure to completion within a reasonable time period), then the non-defaulting Party shall be entitled to (i) terminate this Agreement upon written notice to the other Party, and/or (ii) pursue such other remedy as may be available at law or in equity; provided, however, that if such default involves an emergency (i.e., the possibility of risk of injury to person or property), or performance of such obligation is necessary to prevent or relieve an emergency, then the notice required to be given hereunder need only be such reasonable notice, if any, as is warranted by the nature of the specific condition involved. Notwithstanding anything to the contrary contained herein, each Party hereby waives consequential damages, punitive damages, treble or other multiple damages, and damages for lost opportunity or lost profits for claims, disputes, or other matters arising out of or relating to this Agreement.
9. **Compliance with Laws.** To the extent applicable to this Agreement, Mansfield acknowledges and agrees that it shall comply with and be subject to the laws, rules, regulations and executive orders set forth in Exhibit A attached hereto, which Exhibit A is incorporated herein by reference and made an integral part of this Agreement.
10. **Cooperative Effort.** The Parties agree to work cooperatively to accomplish the objectives described in this Agreement.
11. **Mediation.** Any claim, dispute or other matter in question arising out of or related to this Agreement shall be subject to mediation as a condition precedent to seeking other recourse. Mansfield and UConn shall endeavor to resolve claims, disputes and other matters in question between them by mediation which, unless the Parties mutually agree otherwise, shall take place in the Town of Mansfield, Connecticut and shall be

administered by a mutually agreeable mediator in accordance with the Commercial Mediation Procedures of the American Arbitration Association ("AAA") in effect on the date of this Agreement; provided, that such mediation is not required to be conducted under the auspices of the AAA unless required by either Party. A request for mediation shall be made in writing, delivered to the other Party to the Agreement. The submission of any claim, dispute or other matter to mediation shall not constitute a waiver of any rights of either Party under applicable law.

12. **Governing Law.** This Agreement shall be governed by, and construed and enforced in accordance with, the laws of the State of Connecticut, without regard to its principles of conflicts of laws.
13. **Entire Agreement.** This Agreement, together with the exhibits hereto, constitutes the entire Agreement and understanding between the Parties relating to the subject matter hereof and supersedes all prior discussions and agreements, oral or written, express or implied, relating to the subject matter hereof. Any amendments to this Agreement must be in writing and executed by authorized representatives of the Parties and approved by the Office of the Attorney General. The performance by any Party of its obligations under this Agreement shall not operate in any way as a waiver of non-compliance or breach by the other Party.
14. **Execution.** This Agreement may be executed in one or more counterparts each of which shall constitute an original but which together shall constitute one and the same instrument. Delivery of an executed counterpart of a signature page to this Agreement by telecopier, facsimile, portable document format ("PDF") or other electronic means shall be as effective as delivery of a manually executed counterpart of this Agreement. The signature of any Party on this Agreement by telecopier, facsimile, PDF or other electronic means is to be considered as an original signature, and the document transmitted is to be considered to have the same binding effect as an original signature on an original document. At the request of any Party, any telecopier, facsimile or other electronic signature will be re-executed in original form by the Party which executed the telecopier, facsimile, PDF or other electronic signature. No Party may raise the use of a telecopier, facsimile machine, PDF or other electronic means, or the fact that any signature was transmitted through the use of a telecopier, facsimile machine, PDF or other electronic means, as a defense to the enforcement of this Agreement.
15. **Benefit; Binding.** This Agreement shall inure to the benefit of, and shall be binding upon UConn, but may not be assigned by UConn; any such assignment shall be null and void. This Agreement shall inure to the benefit of, and shall be binding upon Mansfield, its successors and assigns, including, without limitation, any corporation or other business organization with which Mansfield may merge or consolidate or to which it may transfer substantially all of its assets or otherwise enter into an acquisition or reorganization transaction.
16. **Approval of the Office of Attorney General.** This Agreement shall not be binding on either party unless and until approved as to form by the Office of the Attorney General.

17. **Notices.** All notices and other communications shall be deemed to have been duly given and received, whether or not actually received, on (a) the date of receipt if delivered personally, (b) two (2) calendar days after the date of posting if transmitted by certified mail, return receipt requested, or (c) one (1) business day after pick-up if transmitted by nationally recognized overnight courier service, whichever shall first occur, in each case to the address of the Party set forth below. A notice or other communication not given as herein provided shall be deemed given if and when such notice or communication and any specified copies are actually received in writing by the party and all other persons to whom they are required to be given. Any Party hereto may change its address for purposes hereof by notice given to the other Party in accordance with the provisions of this Section 16.

If to Mansfield:

Town of Mansfield
Audrey P. Beck Municipal Building
4 South Eagleville Road
Mansfield, Connecticut 06268
Attention: Town Manager

If to UConn:

[remainder of page intentionally left blank; signature page follows]

[Signature Page to Memorandum of Understanding]

IN WITNESS WHEREOF, the Parties have executed this AGREEMENT as of the date first above written.

THE TOWN OF MANSFIELD

By: _____
Matthew W. Hart
Town Manager

Date: _____

THE UNIVERSITY OF CONNECTICUT

By: _____
Executive Vice President for Administration
and Chief Financial Officer

Date: _____

APPROVED AS TO FORM:

Date: _____

Associate/Assistant Attorney General

EXHIBIT A

1. Claims Against the State. Mansfield agrees that the sole and exclusive means for the presentation of any claim against the State of Connecticut or UConn arising from or in connection with this Agreement shall be in accordance with Chapter 53 of the Connecticut General Statutes (Claims Against the State) and Mansfield further agrees not to initiate any legal proceedings in any state or federal court in addition to, or in lieu of, said Chapter 53 proceedings.

2. State Executive Orders. This Agreement is subject to the provisions of Executive Order No. Three of Governor Thomas J. Meskill, promulgated June 16, 1971, concerning labor employment practices, Executive Order No. Seventeen of Governor Thomas J. Meskill, promulgated February 15, 1973, concerning the listing of employment openings and Executive Order No. Sixteen of Governor John G. Rowland promulgated August 4, 1999, concerning violence in the workplace, all of which are incorporated into and are made a part of this Agreement as if they had been fully set forth in it. At Mansfield's request, UConn shall provide a copy of these orders to Mansfield. This Agreement may also be subject to Executive Order No. 7C of Governor M. Jodi Rell, promulgated July 13, 2006, concerning contracting reforms and Executive Order No. 14 of Governor M. Jodi Rell, promulgated April 17, 2006, concerning procurement of cleaning products and services, in accordance with their respective terms and conditions.

4. Sovereign Immunity. The Parties acknowledge and agree that nothing in this Agreement shall be construed as a waiver by the State of Connecticut or UConn of any rights or defenses of sovereign immunity, which it may have had, now has, or will have with respect to all matters arising out of this Agreement.

5. Statutory Authority. Connecticut General Statutes §§ 4a-52a, 10a-104, 10a-108, 10a-109d (a)(5) and/or 10a-151b, provide UConn with authority to enter into contracts in the pursuit of its mission.

6. Insurance. Mansfield agrees that while performing all services specified in this Agreement, its contractors will carry sufficient insurance (liability and/or other) as applicable according to the nature of the service to be performed so as to "save harmless" the State of Connecticut from any insurable cause whatsoever. If requested, certificates of such insurance will be filed with University prior to the performance of such services.

APPENDIX B – CSA Profit/Loss Statement –
3 Year Historical

| Community School of the Arts P&L - 3YR Historical | | | | |
|--|--------------------|--------------------|--------------------|----------------|
| | FY11 Actual | FY12 Actual | FY13 Actual | 3YR Avg |
| Operating Revenues: | | | | |
| Course Fees (e.g., AMF, CSA) | 531,674 | 561,150 | 488,508 | 527,111 |
| UConn Foundation | 16,641 | 12,005 | 32,975 | 20,540 |
| Other Sales & Services | 2,178 | 3,804 | 12,075 | 6,019 |
| Transfer In from Other Areas | - | - | 22,484 | 7,495 |
| <i>Revenue Subtotal</i> | 550,493 | 576,959 | 556,042 | 561,165 |
| Operating Expenses: | | | | |
| <i>Payroll</i> | | | | |
| Regular Payroll - Classified | 1,712 | - | - | 571 |
| Regular Payroll - Other Professional | - | 115,036 | 109,151 | 74,729 |
| Payroll - Contractual Adjunct | 282,605 | 299,318 | 262,612 | 281,512 |
| Payroll - Graduate Students | 15,324 | 15,069 | - | 10,131 |
| Payroll - Student Labor | - | 2,920 | 3,050 | 1,990 |
| Payroll - Other Personal Services | 99,474 | 297 | 148 | 33,306 |
| Fringe Benefits | 67,279 | 89,002 | 83,132 | 79,805 |
| <i>Contractuals, Commodities & Equip:</i> | | | | |
| Dues - Institutional | - | - | 500 | 167 |
| General Fees | 6,647 | 3,993 | 2,492 | 4,377 |
| Sundry Operating Services | 3,402 | 175 | - | 1,192 |
| Postage | 8,281 | 8,075 | 9,302 | 8,553 |
| Rents And Storage-Long Term | - | - | 50 | 17 |
| General Repairs Labor | - | - | 1,119 | 373 |
| Catering | - | - | 1,162 | 387 |
| Advertising Services | (293) | 265 | 304 | 92 |
| Printing And Binding | 15,473 | 3,812 | 14,860 | 11,382 |
| Photocopying | 1,340 | 111 | - | 483 |
| Prof/Nonprof Svcs - Non-Consulting | 12,315 | 10,765 | 14,308 | 12,463 |
| Food | 258 | 691 | 415 | 455 |
| Repair Materials | 362 | 1,288 | 400 | 683 |
| Maintenance Supplies | 33 | - | 131 | 55 |
| Office Supplies | 2,413 | 3,151 | 1,318 | 2,294 |
| Educational Supplies | 8,695 | 9,235 | 7,821 | 8,584 |
| Educational Equipment >\$5,000 | 2,574 | - | - | 858 |
| IT Software License | - | 59 | 69 | 43 |
| Reimbursement For Svcs Rendered | 1,371 | 12,413 | 5,480 | 6,421 |
| Dues - Individual, Civic Or Social Org. | 530 | 530 | - | 353 |
| Travel | 1,399 | - | - | 466 |
| Hotel - Nathan Hale | - | 268 | 447 | 238 |
| Telephone - Toll Charges | 288 | 260 | 121 | 223 |
| Telephone Line Charges | 3,425 | 3,425 | 3,425 | 3,425 |
| Transfer Out | - | - | 11,317 | 3,772 |
| <i>Expense Subtotal</i> | 534,905 | 580,157 | 533,134 | 549,399 |
| <i>YTD Profit/(Loss)</i> | 15,588 | (3,198) | 22,908 | 11,766 |
| - CSA Programs (99%), Scholarships and Fundraising (1%) | | | | |

PAGE
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**Town of Mansfield
Agenda Item Summary**

To: Town Council
From: Matt Hart, Town Manager *MH*
Cc: Maria Capriola, Assistant Town Manager; Cherie Trahan, Director of Finance; Christine Gamache, Collector of Revenue
Date: June 23, 2014
Re: Transfer of Uncollected Taxes to Property Tax Suspense Book

Subject Matter/Background

Attached please find the proposed transfer of uncollected taxes to the property tax suspense book, submitted for the Town Council's review and approval. As explained by the Collector of Revenue, the majority of the list items are motor vehicle account bills to taxpayers that the Town has been unable to locate. Additionally, 11% of the amount requested to be transferred represent personal property taxes on businesses that closed. The additions to the suspense book total \$53,531.81.

Although the taxes are removed from the books as a current receivable they continue to remain collectible for 15 years from the original due date. From July 1, 2013 to date, the Town has successfully collected \$28,606 in outstanding suspense taxes and interest.

On a related note, many of the delinquent accounts are former students of the University of Connecticut. The Mayor has suggested that we ask the Town-University Relations Committee to review the matter to determine if there is any way that UCONN could assist with the Town's collection efforts.

Recommendation

The Finance Committee reviewed this item at its meeting on June 16, 2014 and recommends the Council's approval.

If the Town Council concurs with the Finance Committee's recommendation, the following motion is in order:

Move, effective June 23, 2014, to transfer \$53,531.81 in uncollected property taxes to the Mansfield Property Tax Suspense Book, as recommended by the Collector of Revenue.

A separate motion to refer the issue to the Town-University Relations Committee is as follows:

Move, to refer the matter of uncollected taxes for UCONN students to the Town-University Relations Committee, to determine if the University could assist the Town with its collection efforts.

Attachments

- 1) List Summary
- 2) Process Suspense Report (Detail)

SUSPENSE LIST SUMMARY BY YEAR

June 16, 2014

| <u>GL YEAR</u> | <u>TOTAL TAX</u> |
|----------------|------------------|
| 2006 TOTAL | \$ 86.39 |
| 2007 TOTAL | 1,046.98 |
| 2008 TOTAL | 2,020.39 |
| 2009 TOTAL | 8,655.27 |
| 2010 TOTAL | 19,125.26 |
| 2011 TOTAL | <u>22,597.52</u> |
| GRAND TOTAL | \$53,531.81 |

Modify Suspense Report

TOWN OF MANSFIELD Date: 06/13/2014 Time: 11:12:23

Page: 1

Condition (s): Year: 2012, Type: 14 - CODE T, Order: Bill Number, Total Only: No, Recap by Dist: No

| Bill # | Dst | Name | Code | Reason | Date | Town Due/Susp | Dist Due/Susp | Sewer Due/Susp | Total |
|-----------------|-----|--------------------------------|------|----------------------|------------|---------------|---------------|----------------|----------|
| 2006-02-0040298 | 0 | GREYLEEDGE EQUESTRIAN WETDOWN | 04 | BANKRUPTCY | 06/09/2014 | 86.39 | | | |
| | | PERSONAL PROPERTY # Of Acct: 1 | | | | 86.39 | | | |
| YR : 2006 | | | | | | TOTAL : 1 | | | 86.39 |
| 2007-02-0040283 | 0 | GIANELLI S PIZZA | 04 | BANKRUPTCY | 06/09/2014 | 489.03 | | | |
| 2007-02-0040295 | 0 | GREYLEEDGE EQUESTRIAN WETDOWN | 04 | BANKRUPTCY | 06/09/2014 | 122.10 | | | |
| | | PERSONAL PROPERTY # Of Acct: 2 | | | | 611.13 | | | |
| 2007-03-0060374 | 0 | TWIN OAK LLC | 07 | OUT OF BUSINESS | 06/09/2014 | 102.47 | | | |
| 2007-03-0060377 | 0 | TWIN OAKS LLC | 07 | OUT OF BUSINESS | 06/09/2014 | 114.50 | | | |
| | | MV REGULAR # Of Acct: 2 | | | | 216.97 | | | |
| 2007-04-0089949 | 0 | MILLETTE JENNIFER L | 02 | CANNOT LOCATE | 06/09/2014 | 67.34 | | | |
| 2007-04-0089950 | 0 | MILLETTE JENNIFER L | 02 | CANNOT LOCATE | 06/09/2014 | 151.54 | | | |
| | | MV SUPPLEMENTAL # Of Acct: 2 | | | | 218.88 | | | |
| YR : 2007 | | | | | | TOTAL : 6 | | | 1,046.98 |
| 2008-01-0007000 | 0 | WRA REALTY LLC | 01 | SMALL BALANCE | 06/09/2014 | 0.01 | | | |
| | | REAL ESTATE # Of Acct: 1 | | | | 0.01 | | | |
| 2008-02-0040285 | 0 | GIANELLI S PIZZA | 04 | BANKRUPTCY | 06/09/2014 | 622.67 | | | |
| 2008-02-0040297 | 0 | GREYLEEDGE EQUESTRIAN WETDOWN | 04 | BANKRUPTCY | 06/09/2014 | 162.26 | | | |
| | | PERSONAL PROPERTY # Of Acct: 2 | | | | 784.93 | | | |
| 2008-03-0055029 | 0 | KE DAN AND | 01 | SMALL BALANCE | 06/09/2014 | 2.00 | | | |
| 2008-03-0056803 | 0 | MILLETTE JENNIFER L | 02 | CANNOT LOCATE | 06/09/2014 | 268.62 | | | |
| 2008-03-0058153 | 0 | PROENZA CATHERINE A | 05 | MOVED OUT OF STATE | 06/09/2014 | 100.35 | | | |
| 2008-03-0058561 | 0 | ROBERTS STEVEN R | 06 | OTHER | 06/09/2014 | 46.61 | | | |
| 2008-03-0058815 | 0 | SABO JASON E | 10 | EXPIRED OR SUSPENDED | 06/09/2014 | 79.19 | | | |
| 2008-03-0059636 | 0 | STANLEY MABERRY OR | 04 | BANKRUPTCY | 06/09/2014 | 5.45 | | | |
| 2008-03-0060417 | 0 | TWIN OAKS LLC | 07 | OUT OF BUSINESS | 06/09/2014 | 94.77 | | | |
| 2008-03-0060418 | 0 | TWIN OAKS LLC | 07 | OUT OF BUSINESS | 06/09/2014 | 110.30 | | | |
| 2008-03-0060419 | 0 | TWIN OAKS LLC | 07 | OUT OF BUSINESS | 06/09/2014 | 35.40 | | | |
| | | MV REGULAR # Of Acct: 9 | | | | 742.69 | | | |
| 2008-04-0089245 | 0 | RECH DANIEL M | 08 | EXPIRED REGISTRATION | 06/09/2014 | 58.18 | | | |
| 2008-04-0089285 | 0 | ROBERTS STEVEN R | 06 | OTHER | 06/09/2014 | 131.84 | | | |
| 2008-04-0089286 | 0 | ROBERTS STEVEN R | 06 | OTHER | 06/09/2014 | 83.43 | | | |
| 2008-04-0089288 | 0 | ROBERTS STEVEN R | 06 | OTHER | 06/09/2014 | 15.53 | | | |
| 2008-04-0089289 | 0 | ROBERTS STEVEN R | 06 | OTHER | 06/09/2014 | 53.76 | | | |
| 2008-04-0089612 | 0 | VILLA-ANGULO CARLOS | 08 | EXPIRED REGISTRATION | 06/09/2014 | 146.44 | | | |
| 2008-04-0089718 | 0 | ZHANG NING | 05 | MOVED OUT OF STATE | 06/09/2014 | 3.58 | | | |
| | | MV SUPPLEMENTAL # Of Acct: 7 | | | | 492.76 | | | |
| YR : 2008 | | | | | | TOTAL : 19 | | | 2,020.39 |
| 2009-01-0004741 | 0 | URQUHART LORRAINE M | 06 | OTHER | 06/09/2014 | 339.37 | | | |
| | | REAL ESTATE # Of Acct: 1 | | | | 339.37 | | | |
| 2009-02-0040289 | 0 | GREYLEEDGE EQUESTRIAN WETDOWN | 04 | BANKRUPTCY | 06/09/2014 | 156.42 | | | |

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Modify Suspense Report

TOWN OF MANSFIELD Date: 06/13/2014 Time: 11:12:23

Page: 2

Condition (s): Year: 2012, Type: 14 - CODE T, Order: Bill Number, Total Only: No, Recap by Dist: No.

| Bill # | Dst | Name | Code | Reason | Date | Town Due/SuspDist | Due/SuspSewer | Due/Susp | Total |
|-------------------|-----|------------------------|------|----------------------|------------|-------------------|---------------|----------|----------|
| PERSONAL PROPERTY | | # Of Acct: 1 | | | | | | | 156.42 |
| 2009-03-0050381 | 0 | BAGSBY AARON E JR | 02 | CANNOT LOCATE | 06/09/2014 | | | | 84.15 |
| 2009-03-0050503 | 0 | BARROWS TANNER L | 10 | EXPIRED OR SUSPENDED | 06/09/2014 | | | | 60.62 |
| 2009-03-0050504 | 0 | BARROWS TANNER L | 10 | EXPIRED OR SUSPENDED | 06/09/2014 | | | | 65.25 |
| 2009-03-0050562 | 0 | BATES KAREN E | 04 | BANKRUPTCY | 06/09/2014 | | | | 319.01 |
| 2009-03-0050867 | 0 | BLAUMAN PETER F | 05 | MOVED OUT OF STATE | 06/09/2014 | | | | 26.51 |
| 2009-03-0051149 | 0 | BROWN JESSE L | 02 | CANNOT LOCATE | 06/09/2014 | | | | 272.22 |
| 2009-03-0051150 | 0 | BROWN JESSE L | 02 | CANNOT LOCATE | 06/09/2014 | | | | 202.47 |
| 2009-03-0051175 | 0 | BRUMBAUGH JONATHAN C | 01 | SMALL BALANCE | 06/09/2014 | | | | 4.11 |
| 2009-03-0051567 | 0 | CHARRON JASON C OR | 08 | EXPIRED REGISTRATION | 06/09/2014 | | | | 234.86 |
| 2009-03-0051568 | 0 | CHARRON JASON C OR | 08 | EXPIRED REGISTRATION | 06/09/2014 | | | | 133.64 |
| 2009-03-0052096 | 0 | CRISP TAMMY L | 08 | EXPIRED REGISTRATION | 06/09/2014 | | | | 109.34 |
| 2009-03-0052909 | 0 | ELLIOTT MICHAEL | 01 | SMALL BALANCE | 06/09/2014 | | | | 0.21 |
| 2009-03-0052943 | 0 | ENGELMAN CURTICE N | 02 | CANNOT LOCATE | 06/09/2014 | | | | 71.99 |
| 2009-03-0053683 | 0 | GLANVILLE SHANE J OR | 01 | SMALL BALANCE | 06/09/2014 | | | | 8.49 |
| 2009-03-0054003 | 0 | GWOZDZ M PATRICIA | 03 | DECEASED | 06/09/2014 | | | | 25.66 |
| 2009-03-0054234 | 0 | HAYES JAMIE L | 08 | EXPIRED REGISTRATION | 06/09/2014 | | | | 47.25 |
| 2009-03-0055067 | 0 | KEY JAMES L | 09 | VEHICLE SOLD | 06/09/2014 | | | | 81.89 |
| 2009-03-0055128 | 0 | KIMENYI FRANCIS | 08 | EXPIRED REGISTRATION | 06/09/2014 | | | | 56.90 |
| 2009-03-0056739 | 0 | MILLETTE JENNIFER L | 02 | CANNOT LOCATE | 06/09/2014 | | | | 200.23 |
| 2009-03-0056921 | 0 | MORENO MIGUEL A AND | 05 | MOVED OUT OF STATE | 06/09/2014 | | | | 7.00 |
| 2009-03-0057654 | 0 | PARENTEAU RACHELLE | 01 | SMALL BALANCE | 06/09/2014 | | | | 1.93 |
| 2009-03-0058053 | 0 | PORTER ROBERT S | 08 | EXPIRED REGISTRATION | 06/09/2014 | | | | 70.19 |
| 2009-03-0058109 | 0 | PROENZA CATHERINE A | 05 | MOVED OUT OF STATE | 06/09/2014 | | | | 103.48 |
| 2009-03-0058278 | 0 | RECH DANIEL M | 08 | EXPIRED REGISTRATION | 06/09/2014 | | | | 64.79 |
| 2009-03-0058431 | 0 | RIECHARDT ROBERT T | 10 | EXPIRED OR SUSPENDED | 06/09/2014 | | | | 75.15 |
| 2009-03-0058440 | 0 | RILEY MELISSA L | 01 | SMALL BALANCE | 06/09/2014 | | | | 5.52 |
| 2009-03-0058499 | 0 | ROBERTS STEVEN R | 06 | OTHER | 06/09/2014 | | | | 209.92 |
| 2009-03-0058500 | 0 | ROBERTS STEVEN R | 06 | OTHER | 06/09/2014 | | | | 380.25 |
| 2009-03-0058501 | 0 | ROBERTS STEVEN R | 06 | OTHER | 06/09/2014 | | | | 21.60 |
| 2009-03-0058502 | 0 | ROBERTS STEVEN R | 06 | OTHER | 06/09/2014 | | | | 118.34 |
| 2009-03-0058503 | 0 | ROBERTS STEVEN R | 06 | OTHER | 06/09/2014 | | | | 109.78 |
| 2009-03-0058546 | 0 | ROE DAVID S | 02 | CANNOT LOCATE | 06/09/2014 | | | | 80.55 |
| 2009-03-0058749 | 0 | SABO JASON E | 10 | EXPIRED OR SUSPENDED | 06/09/2014 | | | | 77.39 |
| 2009-03-0058750 | 0 | SABO JASON E OR | 10 | EXPIRED OR SUSPENDED | 06/09/2014 | | | | 143.98 |
| 2009-03-0058836 | 0 | SARDI HEATHER M | 08 | EXPIRED REGISTRATION | 06/09/2014 | | | | 93.15 |
| 2009-03-0059158 | 0 | SHRESTHA GRISHMA | 05 | MOVED OUT OF STATE | 06/09/2014 | | | | 191.67 |
| 2009-03-0059574 | 0 | STANLEY MABERRY OR | 04 | BANKRUPTCY | 06/09/2014 | | | | 306.57 |
| 2009-03-0059594 | 0 | STEADWARD TAMMY J | 02 | CANNOT LOCATE | 06/09/2014 | | | | 188.97 |
| 2009-03-0060026 | 0 | THOMAS BRIAN J | 05 | MOVED OUT OF STATE | 06/09/2014 | | | | 32.59 |
| 2009-03-0060515 | 0 | VILLA-ANGULO CARLOS | 08 | EXPIRED REGISTRATION | 06/09/2014 | | | | 234.86 |
| 2009-03-0060743 | 0 | WEIGEL GRIFFIN K | 08 | EXPIRED REGISTRATION | 06/09/2014 | | | | 5.00 |
| 2009-03-0060877 | 0 | WHITTEMORE BRAD A | 01 | SMALL BALANCE | 06/09/2014 | | | | 3.47 |
| 2009-03-0061008 | 0 | WONG JONATHAN P | 08 | EXPIRED REGISTRATION | 06/09/2014 | | | | 397.30 |
| 2009-03-0061009 | 0 | WONG JONATHAN P | 08 | EXPIRED REGISTRATION | 06/09/2014 | | | | 289.31 |
| 2009-03-0061245 | 0 | ZHANG NING | 05 | MOVED OUT OF STATE | 06/09/2014 | | | | 12.22 |
| MV REGULAR | | # Of Acct: 45 | | | | | | | 5,229.78 |
| 2009-04-0088031 | 0 | ALMASOUD AHMAD A | 02 | CANNOT LOCATE | 06/09/2014 | | | | 406.58 |
| 2009-04-0088072 | 0 | BAGSBY AARON E JR | 02 | CANNOT LOCATE | 06/09/2014 | | | | 39.41 |
| 2009-04-0088090 | 0 | BARRA MELANIE MARIANNE | 09 | VEHICLE SOLD | 06/09/2014 | | | | 39.39 |
| 2009-04-0088092 | 0 | BARROWS TANNER L | 10 | EXPIRED OR SUSPENDED | 06/09/2014 | | | | 16.33 |

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| Bill # | Dst | Name | Code | Reason | Date | Town Due/SuspDist | Due/SuspSewer | Due/Susp | Total |
|-------------------|-----|----------------------------------|------|----------------------|------------|-------------------|---------------|----------|-------|
| 2009-04-0088096 | 0 | BARTLETT BARRINGTON E 2N | 02 | CANNOT LOCATE | 06/09/2014 | 184.01 | | | |
| 2009-04-0088097 | 0 | BARTLETT BARRINGTON E 2N | 02 | CANNOT LOCATE | 06/09/2014 | 40.88 | | | |
| 2009-04-0088107 | 0 | BATES DAVID S | 02 | CANNOT LOCATE | 06/09/2014 | 13.88 | | | |
| 2009-04-0088108 | 0 | BATES KAREN E | 04 | BANKRUPTCY | 06/09/2014 | 25.32 | | | |
| 2009-04-0088135 | 0 | BIRKBECK WILLIAM F | 08 | EXPIRED REGISTRATION | 06/09/2014 | 45.92 | | | |
| 2009-04-0088292 | 0 | COOK TIMOTHY O COM | 02 | CANNOT LOCATE | 06/09/2014 | 51.24 | | | |
| 2009-04-0088439 | 0 | ENNIS JOSEPH P | 10 | EXPIRED OR SUSPENDED | 06/09/2014 | 344.10 | | | |
| 2009-04-0088564 | 0 | GOSSET BENJAMIN L | 05 | MOVED OUT OF STATE | 06/09/2014 | 19.69 | | | |
| 2009-04-0088610 | 0 | HAENDEL SARAH J | 08 | EXPIRED REGISTRATION | 06/09/2014 | 78.75 | | | |
| 2009-04-0088770 | 0 | KETTLE AMBER L | 02 | CANNOT LOCATE | 06/09/2014 | 54.45 | | | |
| 2009-04-0088771 | 0 | KETTLE AMBER L | 02 | CANNOT LOCATE | 06/09/2014 | 35.09 | | | |
| 2009-04-0089146 | 0 | PARK JAESUNG | 10 | EXPIRED OR SUSPENDED | 06/09/2014 | 99.63 | | | |
| 2009-04-0089279 | 0 | RIVERA DOREEN L | 08 | EXPIRED REGISTRATION | 06/09/2014 | 25.48 | | | |
| 2009-04-0089286 | 0 | ROBERTS STEVEN R | 06 | OTHER | 06/09/2014 | 31.96 | | | |
| 2009-04-0089287 | 0 | ROBERTS STEVEN R | 06 | OTHER | 06/09/2014 | 109.83 | | | |
| 2009-04-0089288 | 0 | ROBERTS STEVEN R | 06 | OTHER | 06/09/2014 | 186.89 | | | |
| 2009-04-0089289 | 0 | ROBERTS STEVEN R | 06 | OTHER | 06/09/2014 | 196.14 | | | |
| 2009-04-0089343 | 0 | SCHLETTER MICHAEL C | 01 | SMALL BALANCE | 06/09/2014 | 2.00 | | | |
| 2009-04-0089484 | 0 | STOWELL GREGORY | 09 | VEHICLE SOLD | 06/09/2014 | 214.49 | | | |
| 2009-04-0089512 | 0 | SZYMANCZYK PAUL | 02 | CANNOT LOCATE | 06/09/2014 | 151.05 | | | |
| 2009-04-0089605 | 0 | VANOVER JASMINE N | 02 | CANNOT LOCATE | 06/09/2014 | 14.86 | | | |
| 2009-04-0089624 | 0 | VISNY AMANDA L | 02 | CANNOT LOCATE | 06/09/2014 | 68.21 | | | |
| 2009-04-0089638 | 0 | WALSH MELINDA S | 02 | CANNOT LOCATE | 06/09/2014 | 7.69 | | | |
| 2009-04-0089675 | 0 | WEINSTEIN AARON R | 02 | CANNOT LOCATE | 06/09/2014 | 40.00 | | | |
| 2009-04-0089712 | 0 | XIN JIAN | 02 | CANNOT LOCATE | 06/09/2014 | 219.28 | | | |
| 2009-04-0089713 | 0 | XIN JIAN | 02 | CANNOT LOCATE | 06/09/2014 | 164.78 | | | |
| 2009-04-0089771 | 0 | COLBURN JILL R | 01 | SMALL BALANCE | 06/09/2014 | 2.37 | | | |
| MV SUPPLEMENTAL | | # Of Acct: 31 | | | | 2,929.70 | | | |
| YR : 2009 | | TOTAL : 78 | | | | 8,655.27 | | | |
| 2010-01-0003323 | 0 | NE CTR FOR YOUTH & FAMILIES INC | 01 | SMALL BALANCE | 06/09/2014 | 1.50 | | | |
| REAL ESTATE | | # Of Acct: 1 | | | | 1.50 | | | |
| 2010-02-0040055 | 0 | ARTHUR LEE-COLLEGE PRO PAINTERS* | 07 | OUT OF BUSINESS | 06/09/2014 | 173.42 | | | |
| 2010-02-0040264 | 0 | FRIENDLY ICE CREAM CORP | 04 | BANKRUPTCY | 06/09/2014 | 1,088.52 | | | |
| 2010-02-0040285 | 0 | GREYLEDGE EQUESTRIAN WETDOWN | 04 | BANKRUPTCY | 06/09/2014 | 202.90 | | | |
| 2010-02-0040530 | 0 | PROFESSIONAL RESOURCE GRP | 01 | SMALL BALANCE | 06/09/2014 | 6.67 | | | |
| PERSONAL PROPERTY | | # Of Acct: 4 | | | | 1,471.51 | | | |
| 2010-03-0050088 | 0 | AHMAD RAIS | 01 | SMALL BALANCE | 06/09/2014 | 0.01 | | | |
| 2010-03-0050099 | 0 | ALALI HAMOOD A | 01 | SMALL BALANCE | 06/09/2014 | 4.34 | | | |
| 2010-03-0050156 | 0 | ALMASOUD AHMAD A | 02 | CANNOT LOCATE | 06/09/2014 | 652.27 | | | |
| 2010-03-0050157 | 0 | ALOTAIBI SAAD H | 05 | MOVED OUT OF STATE | 06/09/2014 | 151.81 | | | |
| 2010-03-0050167 | 0 | AMARU DAWN M | 02 | CANNOT LOCATE | 06/09/2014 | 33.62 | | | |
| 2010-03-0050401 | 0 | BAGSEY AARON E JR | 02 | CANNOT LOCATE | 06/09/2014 | 119.07 | | | |
| 2010-03-0050468 | 0 | BANERJEE NIKHIL | 02 | CANNOT LOCATE | 06/09/2014 | 32.68 | | | |
| 2010-03-0050469 | 0 | BANERJEE SUBHADEEP | 02 | CANNOT LOCATE | 06/09/2014 | 83.24 | | | |
| 2010-03-0050516 | 0 | BARRA MELANIE MARIANNE | 09 | VEHICLE SOLD | 06/09/2014 | 12.25 | | | |
| 2010-03-0050521 | 0 | BARROWS TANNER L | 10 | EXPIRED OR SUSPENDED | 06/09/2014 | 56.61 | | | |
| 2010-03-0050522 | 0 | BARROWS TANNER L | 10 | EXPIRED OR SUSPENDED | 06/09/2014 | 64.43 | | | |
| 2010-03-0050542 | 0 | BARTLETT BARRINGTON E 2ND | 02 | CANNOT LOCATE | 06/09/2014 | 257.73 | | | |
| 2010-03-0050583 | 0 | BATES DAVID S | 02 | CANNOT LOCATE | 06/09/2014 | 17.34 | | | |

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Modify Suspense Report

TOWN OF MANSFIELD Date: 06/13/2014 Time: 11:12:23

Condition (s): Year: 2012, Type: 14 - CODE T, Order: Bill Number, Total Only: No, Recap by Dist: No

| Bill # | Dst | Name | Code | Reason | Date | Town Due/Susp | Dist Due/Susp | Sewer Due/Susp | Total |
|-----------------|-----|-------------------------|------|----------------------|------------|---------------|---------------|----------------|-------|
| 2010-03-0050584 | 0 | BATES KAREN E | 04 | BANKRUPTCY | 06/09/2014 | 98.05 | | | |
| 2010-03-0050635 | 0 | BEAUPRE NANCY A | 01 | SMALL BALANCE | 06/09/2014 | 0.12 | | | |
| 2010-03-0050828 | 0 | BIRKBECK WILLIAM F | 08 | EXPIRED REGISTRATION | 06/09/2014 | 69.58 | | | |
| 2010-03-0050876 | 0 | BLAUMAN PETER F | 05 | MOVED OUT OF STATE | 06/09/2014 | 483.36 | | | |
| 2010-03-0050877 | 0 | BLAUMAN PETER F | 05 | MOVED OUT OF STATE | 06/09/2014 | 8.85 | | | |
| 2010-03-0050878 | 0 | BLAUMAN PETER F | 05 | MOVED OUT OF STATE | 06/09/2014 | 163.07 | | | |
| 2010-03-0050939 | 0 | BONKOWSKI JOHN L JR | 08 | EXPIRED REGISTRATION | 06/09/2014 | 70.52 | | | |
| 2010-03-0051151 | 0 | BROWN JESSE L | 02 | CANNOT LOCATE | 06/09/2014 | 265.20 | | | |
| 2010-03-0051152 | 0 | BROWN JESSE L | 02 | CANNOT LOCATE | 06/09/2014 | 199.83 | | | |
| 2010-03-0051170 | 0 | BRUMBAUGH JONATHAN C | 08 | EXPIRED REGISTRATION | 06/09/2014 | 58.83 | | | |
| 2010-03-0051320 | 0 | CAIN JAMES T | 02 | CANNOT LOCATE | 06/09/2014 | 61.63 | | | |
| 2010-03-0051548 | 0 | CHARRON JASON C OR | 08 | EXPIRED REGISTRATION | 06/09/2014 | 130.28 | | | |
| 2010-03-0051549 | 0 | CHARRON JASON C OR | 08 | EXPIRED REGISTRATION | 06/09/2014 | 249.80 | | | |
| 2010-03-0051592 | 0 | CHEN TAO OR | 02 | CANNOT LOCATE | 06/09/2014 | 89.64 | | | |
| 2010-03-0051685 | 0 | CHUNG MINYU | 09 | VEHICLE SOLD | 06/09/2014 | 174.40 | | | |
| 2010-03-0051909 | 0 | COOK TIMOTHY O COM | 02 | CANNOT LOCATE | 06/09/2014 | 148.95 | | | |
| 2010-03-0052191 | 0 | DANIELS JESSICA L OR | 05 | MOVED OUT OF STATE | 06/09/2014 | 38.29 | | | |
| 2010-03-0052841 | 0 | ELLIOTT MICHAEL | 08 | EXPIRED REGISTRATION | 06/09/2014 | 64.91 | | | |
| 2010-03-0052874 | 0 | ENGLERMAN CURTICE N | 02 | CANNOT LOCATE | 06/09/2014 | 70.52 | | | |
| 2010-03-0052883 | 0 | ENNIS JOSEPH P | 10 | EXPIRED OR SUSPENDED | 06/09/2014 | 350.66 | | | |
| 2010-03-0053132 | 0 | FISHER SEAN G | 08 | EXPIRED REGISTRATION | 06/09/2014 | 98.05 | | | |
| 2010-03-0053731 | 0 | GOSSET BENJAMIN L | 05 | MOVED OUT OF STATE | 06/09/2014 | 47.17 | | | |
| 2010-03-0053798 | 0 | GREER JOEL T | 08 | EXPIRED REGISTRATION | 06/09/2014 | 216.77 | | | |
| 2010-03-0053934 | 0 | HAENDEL SARAH J | 08 | EXPIRED REGISTRATION | 06/09/2014 | 75.64 | | | |
| 2010-03-0054132 | 0 | HAYES JAMIE L | 08 | EXPIRED REGISTRATION | 06/09/2014 | 47.17 | | | |
| 2010-03-0054194 | 0 | HENDERSON DARLENE L | 02 | CANNOT LOCATE | 06/09/2014 | 70.97 | | | |
| 2010-03-0054223 | 0 | HERREID JENNIE M | 02 | CANNOT LOCATE | 06/09/2014 | 0.29 | | | |
| 2010-03-0054236 | 0 | HICKELTON MEGHAN E | 01 | SMALL BALANCE | 06/09/2014 | 7.85 | | | |
| 2010-03-0054300 | 0 | HNATH JAMES P | 08 | EXPIRED REGISTRATION | 06/09/2014 | 78.44 | | | |
| 2010-03-0054310 | 0 | HOCKLA TERRY L | 08 | EXPIRED REGISTRATION | 06/09/2014 | 118.14 | | | |
| 2010-03-0054489 | 0 | HULME DOREEN E | 08 | EXPIRED REGISTRATION | 06/09/2014 | 48.96 | | | |
| 2010-03-0054509 | 0 | HUNT-FIGUEROA ALEXANDER | 05 | MOVED OUT OF STATE | 06/09/2014 | 36.90 | | | |
| 2010-03-0054856 | 0 | KARIN LIPINSKI RENTAL | 04 | BANKRUPTCY | 06/09/2014 | 246.07 | | | |
| 2010-03-0054857 | 0 | KARIN LIPINSKI RENTAL | 04 | BANKRUPTCY | 06/09/2014 | 142.42 | | | |
| 2010-03-0054885 | 0 | KE DAN AND | 10 | EXPIRED OR SUSPENDED | 06/09/2014 | 49.49 | | | |
| 2010-03-0054983 | 0 | KETTLE AMBER L | 02 | CANNOT LOCATE | 06/09/2014 | 45.76 | | | |
| 2010-03-0054984 | 0 | KETTLE AMBER L | 02 | CANNOT LOCATE | 06/09/2014 | 59.76 | | | |
| 2010-03-0054985 | 0 | KEY JAMES L | 09 | VEHICLE SOLD | 06/09/2014 | 79.85 | | | |
| 2010-03-0055037 | 0 | KIMENYI FRANCIS | 08 | EXPIRED REGISTRATION | 06/09/2014 | 127.00 | | | |
| 2010-03-0055161 | 0 | KOCHIS KEVIN P | 02 | CANNOT LOCATE | 06/09/2014 | 148.02 | | | |
| 2010-03-0055508 | 0 | LAURITZEN WILLIAM S | 08 | EXPIRED REGISTRATION | 06/09/2014 | 182.09 | | | |
| 2010-03-0055664 | 0 | LEVELIFT LLC | 06 | OTHER | 06/09/2014 | 145.67 | | | |
| 2010-03-0055776 | 0 | LIU CHUNYANG | 02 | CANNOT LOCATE | 06/09/2014 | 5.64 | | | |
| 2010-03-0055847 | 0 | LOPEZ-SANTOS JAIME | 08 | EXPIRED REGISTRATION | 06/09/2014 | 13.47 | | | |
| 2010-03-0055991 | 0 | MACZKA MICHAEL | 01 | SMALL BALANCE | 06/09/2014 | 3.91 | | | |
| 2010-03-0056120 | 0 | MANSFIELD KATIE L | 02 | CANNOT LOCATE | 06/09/2014 | 18.04 | | | |
| 2010-03-0056378 | 0 | MCDONALD DANIEL C | 05 | MOVED OUT OF STATE | 06/09/2014 | 131.21 | | | |
| 2010-03-0056659 | 0 | MILLETTE JENNIFER L | 02 | CANNOT LOCATE | 06/09/2014 | 187.24 | | | |
| 2010-03-0056845 | 0 | MORENO MIGUEL A | 05 | MOVED OUT OF STATE | 06/09/2014 | 66.78 | | | |
| 2010-03-0056846 | 0 | MORENO MIGUEL A AND | 05 | MOVED OUT OF STATE | 06/09/2014 | 45.30 | | | |
| 2010-03-0057043 | 0 | NAMBA NICHOLAS S JNT | 01 | SMALL BALANCE | 06/09/2014 | 5.42 | | | |
| 2010-03-0057302 | 0 | NORTH PHILLIP ANDREW | 02 | CANNOT LOCATE | 06/09/2014 | 82.17 | | | |
| 2010-03-0057345 | 0 | OESTERLE BRUNO OR | 02 | CANNOT LOCATE | 06/09/2014 | 76.12 | | | |
| 2010-03-0057433 | 0 | ORLANDO TODD M | 02 | CANNOT LOCATE | 06/09/2014 | 154.56 | | | |

Modify Suspensa Report

TOWN OF MANSFIELD Date: 06/13/2014 Time: 11:12:23

Condition (s): Year: 2012, Type: 14 - CODE T, Order: Bill Number, Total Only: No, Recap by Dist: No

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| Bill # | Dst | Name | Code | Reason | Date | Town Due/Susp | Dist Due/Susp | Sewer Due/Susp | Total |
|-----------------|-----|-------------------------------|------|----------------------|------------|---------------|---------------|----------------|-------|
| 2010-03-0057560 | 0 | PAPKA BOZHENA | 01 | SMALL BALANCE | 06/09/2014 | | | 4.14 | |
| 2010-03-0057589 | 0 | PARK JAESUNG | 10 | EXPIRED OR SUSPENDED | 06/09/2014 | | | 131.67 | |
| 2010-03-0057591 | 0 | PARK JONGHYUN | 10 | EXPIRED OR SUSPENDED | 06/09/2014 | | | 167.15 | |
| 2010-03-0057647 | 0 | PATRONE FREDERICK T | 02 | CANNOT LOCATE | 06/09/2014 | | | 120.46 | |
| 2010-03-0057721 | 0 | PELRINE MATTHEW J | 02 | CANNOT LOCATE | 06/09/2014 | | | 168.56 | |
| 2010-03-0057894 | 0 | PINCOMBE TODD C | 05 | MOVED OUT OF STATE | 06/09/2014 | | | 43.56 | |
| 2010-03-0057974 | 0 | PORTER ROBERT S | 08 | EXPIRED REGISTRATION | 06/09/2014 | | | 68.17 | |
| 2010-03-0057998 | 0 | POWER VLADIMIR | 01 | SMALL BALANCE | 06/09/2014 | | | 2.89 | |
| 2010-03-0058010 | 0 | PRATES MARCOS O | 02 | CANNOT LOCATE | 06/09/2014 | | | 70.97 | |
| 2010-03-0058196 | 0 | RECH DANIEL M | 08 | EXPIRED REGISTRATION | 06/09/2014 | | | 63.98 | |
| 2010-03-0058199 | 0 | REDDY CHRISTOPHER D | 02 | CANNOT LOCATE | 06/09/2014 | | | 27.76 | |
| 2010-03-0058249 | 0 | REMILLARD DEBORA L | 05 | MOVED OUT OF STATE | 06/09/2014 | | | 33.73 | |
| 2010-03-0058323 | 0 | RICHARDS JOSEPH P | 01 | SMALL BALANCE | 06/09/2014 | | | 5.00 | |
| 2010-03-0058346 | 0 | RIECHARDT ROBERT T | 10 | EXPIRED OR SUSPENDED | 06/09/2014 | | | 70.04 | |
| 2010-03-0058353 | 0 | RILEY MELISSA L | 08 | EXPIRED REGISTRATION | 06/09/2014 | | | 188.07 | |
| 2010-03-0058372 | 0 | RIVERA DOREEN L | 08 | EXPIRED REGISTRATION | 06/09/2014 | | | 31.75 | |
| 2010-03-0058419 | 0 | ROBERTS STEVEN R | 06 | OTHER | 06/09/2014 | | | 320.29 | |
| 2010-03-0058420 | 0 | ROBERTS STEVEN R | 06 | OTHER | 06/09/2014 | | | 253.06 | |
| 2010-03-0058421 | 0 | ROBERTS STEVEN R | 06 | OTHER | 06/09/2014 | | | 419.14 | |
| 2010-03-0058422 | 0 | ROBERTS STEVEN R | 06 | OTHER | 06/09/2014 | | | 268.56 | |
| 2010-03-0058435 | 0 | ROBINSON MISTY L | 10 | EXPIRED OR SUSPENDED | 06/09/2014 | | | 75.18 | |
| 2010-03-0058457 | 0 | RODRIGUEZ ZORAIDA OR | 10 | EXPIRED OR SUSPENDED | 06/09/2014 | | | 135.83 | |
| 2010-03-0058458 | 0 | ROE DAVID S | 02 | CANNOT LOCATE | 06/09/2014 | | | 80.31 | |
| 2010-03-0058669 | 0 | SABO JASON E OR | 10 | EXPIRED OR SUSPENDED | 06/09/2014 | | | 141.48 | |
| 2010-03-0058753 | 0 | SAPIEHA JEFFREY S | 08 | EXPIRED REGISTRATION | 06/09/2014 | | | 483.71 | |
| 2010-03-0058754 | 0 | SARDI HEATHER M | 08 | EXPIRED REGISTRATION | 06/09/2014 | | | 85.91 | |
| 2010-03-0058755 | 0 | SARDI HEATHER M | 08 | EXPIRED REGISTRATION | 06/09/2014 | | | 68.65 | |
| 2010-03-0058791 | 0 | SAVOY VIRGINIA O | 03 | DECEASED | 06/09/2014 | | | 80.31 | |
| 2010-03-0058828 | 0 | SCHLETTER MICHAEL C | 08 | EXPIRED REGISTRATION | 06/09/2014 | | | 176.03 | |
| 2010-03-0058975 | 0 | SHAMBAMUTO BEZIEL | 02 | CANNOT LOCATE | 06/09/2014 | | | 110.19 | |
| 2010-03-0059362 | 0 | SOONTORNWORAJIT BOONCHOY | 10 | EXPIRED OR SUSPENDED | 06/09/2014 | | | 72.84 | |
| 2010-03-0059500 | 0 | STEADWARD TAMMY J | 02 | CANNOT LOCATE | 06/09/2014 | | | 186.76 | |
| 2010-03-0059621 | 0 | STILLMAN ROBIN L | 01 | SMALL BALANCE | 06/09/2014 | | | 0.87 | |
| 2010-03-0059668 | 0 | STOWELL GREGORY | 09 | VEHICLE SOLD | 06/09/2014 | | | 21.47 | |
| 2010-03-0059683 | 0 | STRICKLAND ERIC G | 05 | MOVED OUT OF STATE | 06/09/2014 | | | 404.47 | |
| 2010-03-0059684 | 0 | STRICKLAND ERIC G & CHARMAINE | 05 | MOVED OUT OF STATE | 06/09/2014 | | | 105.12 | |
| 2010-03-0059725 | 0 | SUN JUNCHUAN | 08 | EXPIRED REGISTRATION | 06/09/2014 | | | 402.47 | |
| 2010-03-0059740 | 0 | SURER IRFAN | 08 | EXPIRED REGISTRATION | 06/09/2014 | | | 90.13 | |
| 2010-03-0059741 | 0 | SURMA MAGDALENA J | 05 | MOVED OUT OF STATE | 06/09/2014 | | | 262.40 | |
| 2010-03-0059795 | 0 | SZYMANCZYK PAUL | 02 | CANNOT LOCATE | 06/09/2014 | | | 168.56 | |
| 2010-03-0059829 | 0 | TAN SHENG JIE | 02 | CANNOT LOCATE | 06/09/2014 | | | 53.23 | |
| 2010-03-0059901 | 0 | TECHARUNGNIRUN YINGYONG | 08 | EXPIRED REGISTRATION | 06/09/2014 | | | 103.20 | |
| 2010-03-0060360 | 0 | VANOVER JASMINE N | 02 | CANNOT LOCATE | 06/09/2014 | | | 30.82 | |
| 2010-03-0060427 | 0 | VILLA-ANGULO CARLOS | 08 | EXPIRED REGISTRATION | 06/09/2014 | | | 230.20 | |
| 2010-03-0060449 | 0 | VISNY AMANDA L | 02 | CANNOT LOCATE | 06/09/2014 | | | 77.51 | |
| 2010-03-0060463 | 0 | VOETS ROBERT J OR | 08 | EXPIRED REGISTRATION | 06/09/2014 | | | 417.41 | |
| 2010-03-0060529 | 0 | WALSH GERALD P | 01 | SMALL BALANCE | 06/09/2014 | | | 1.02 | |
| 2010-03-0060530 | 0 | WALSH MELINDA S | 02 | CANNOT LOCATE | 06/09/2014 | | | 117.21 | |
| 2010-03-0060695 | 0 | WEIGEL GRIFFIN K | 08 | EXPIRED REGISTRATION | 06/09/2014 | | | 109.25 | |
| 2010-03-0060704 | 0 | WEINSTEIN AARON R | 02 | CANNOT LOCATE | 06/09/2014 | | | 106.93 | |
| 2010-03-0060932 | 0 | WISNIEWSKI MARILYN W | 10 | EXPIRED OR SUSPENDED | 06/09/2014 | | | 141.94 | |
| 2010-03-0060947 | 0 | WONG JONATHAN P | 08 | EXPIRED REGISTRATION | 06/09/2014 | | | 286.22 | |
| 2010-03-0061052 | 0 | XIN JIAN | 02 | CANNOT LOCATE | 06/09/2014 | | | 372.13 | |
| 2010-03-0061053 | 0 | XIN JIAN | 02 | CANNOT LOCATE | 06/09/2014 | | | 231.13 | |

Modify Suspense Report

TOWN OF MANSFIELD Date: 06/13/2014 Time: 11:12:23

Condition (s): Year: 2012, Type: 14 - CODE T, Order: Bill Number, Total Only: No, Recap by Dist: No

| Bill # | Dst | Name | Code | Reason | Date | Town Due/SuspDist | Due/SuspSewer | Due/Susp | Total |
|-------------------|-----|---------------------------------|------|----------------------|------------|-------------------|---------------|----------|-----------|
| 2010-03-0061106 | 0 | YOSHIOKA SUMIE | 10 | EXPIRED OR SUSPENDED | 06/09/2014 | | | 30.95 | |
| 2010-03-0061187 | 0 | ZHANG LINHUI | 10 | EXPIRED OR SUSPENDED | 06/09/2014 | | | 18.33 | |
| 2010-03-0061219 | 0 | ZHU CHEN | 02 | CANNOT LOCATE | 06/09/2014 | | | 77.99 | |
| MV REGULAR | | # Of Acct: 124 | | | | | | | 15,161.34 |
| 2010-04-0080025 | | ALKHUDHAYRI NALF R | 02 | CANNOT LOCATE | 06/09/2014 | | | 84.18 | |
| 2010-04-0080163 | | BONKOWSKI JOHN L JR | 08 | EXPIRED REGISTRATION | 06/09/2014 | | | 52.67 | |
| 2010-04-0080496 | | FISHER MIACHARIA I | 08 | EXPIRED REGISTRATION | 06/09/2014 | | | 253.99 | |
| 2010-04-0080497 | | FISHER SEAN G | 08 | EXPIRED REGISTRATION | 06/09/2014 | | | 175.34 | |
| 2010-04-0080538 | | GARDINER SAMANTHA D | 08 | EXPIRED REGISTRATION | 06/09/2014 | | | 45.12 | |
| 2010-04-0080649 | | HEBERT RAYMOND J | 05 | MOVED OUT OF STATE | 06/09/2014 | | | 55.15 | |
| 2010-04-0080756 | | JOU GEOFFREY S | 02 | CANNOT LOCATE | 06/09/2014 | | | 402.07 | |
| 2010-04-0080757 | | JUBREY KATIE L | 08 | EXPIRED REGISTRATION | 06/09/2014 | | | 20.46 | |
| 2010-04-0080769 | | KARIN LIPINSKI RENTAL | 04 | BANKRUPTCY | 06/09/2014 | | | 71.56 | |
| 2010-04-0080905 | | LI MING | 02 | CANNOT LOCATE | 06/09/2014 | | | 111.12 | |
| 2010-04-0081230 | | PIERSANTI STEVEN L | 01 | SMALL BALANCE | 06/09/2014 | | | 2.00 | |
| 2010-04-0081254 | | QIAN QIXIAO | 09 | VEHICLE SOLD | 06/09/2014 | | | 268.53 | |
| 2010-04-0081273 | | RAYMOND SHAUNA N | 08 | EXPIRED REGISTRATION | 06/09/2014 | | | 13.87 | |
| 2010-04-0081385 | | SCHMIDT MARIO | 09 | VEHICLE SOLD | 06/09/2014 | | | 95.78 | |
| 2010-04-0081405 | | SENE JULES M | 09 | VEHICLE SOLD | 06/09/2014 | | | 613.43 | |
| 2010-04-0081503 | | SPRING HILL BED & BREAKFAST | 02 | CANNOT LOCATE | 06/09/2014 | | | 143.86 | |
| 2010-04-0081533 | | STUTZ IRENE K | 08 | EXPIRED REGISTRATION | 06/09/2014 | | | 56.86 | |
| 2010-04-0081623 | | URIN FATIH | 02 | CANNOT LOCATE | 06/09/2014 | | | 24.92 | |
| MV SUPPLEMENTAL | | # Of Acct: 18 | | | | | | | 2,490.91 |
| YR : 2010 | | TOTAL : 147 | | | | | | | 19,125.26 |
| 2011-02-0040045 | | ARTHUR LEE-COLLEGE PRO PAINTERS | 07 | OUT OF BUSINESS | 06/09/2014 | | | 176.54 | |
| 2011-02-0040215 | | EDWARDS MARK | 01 | SMALL BALANCE | 06/09/2014 | | | 1.11 | |
| 2011-02-0040247 | | FRIENDLY ICE CREAM CORP | 04 | BANKRUPTCY | 06/09/2014 | | | 2,187.48 | |
| 2011-02-0040447 | | NAIL LOFT | 01 | SMALL BALANCE | 06/09/2014 | | | 1.78 | |
| 2011-02-0040480 | | OUTLINES RUBBER STAMPS INC | 01 | SMALL BALANCE | 06/09/2014 | | | 0.86 | |
| 2011-02-0040659 | | UCONN SPORTS MARKETING | 07 | OUT OF BUSINESS | 06/09/2014 | | | 191.08 | |
| 2011-02-0040660 | | UDITIS ED | 07 | OUT OF BUSINESS | 06/09/2014 | | | 178.98 | |
| 2011-02-0040678 | | WAITE BRIAN | 07 | OUT OF BUSINESS | 06/09/2014 | | | 56.50 | |
| PERSONAL PROPERTY | | # Of Acct: 8 | | | | | | | 2,794.33 |
| 2011-03-0050039 | | ABELL TAIJAH M | 09 | VEHICLE SOLD | 06/09/2014 | | | 53.23 | |
| 2011-03-0050094 | | AHMAD RAIS | 08 | EXPIRED REGISTRATION | 06/09/2014 | | | 158.89 | |
| 2011-03-0050136 | | ALKHUDHAYRI NAIF R | 02 | CANNOT LOCATE | 06/09/2014 | | | 126.02 | |
| 2011-03-0050167 | | ALMASOUD AHMAD A | 02 | CANNOT LOCATE | 06/09/2014 | | | 632.56 | |
| 2011-03-0050169 | | ALOTAIBI SAAD H | 05 | MOVED OUT OF STATE | 06/09/2014 | | | 118.42 | |
| 2011-03-0050177 | | ALTUWAIJRI WALEED M | 02 | CANNOT LOCATE | 06/09/2014 | | | 211.03 | |
| 2011-03-0050182 | | AMARU DAWN M | 02 | CANNOT LOCATE | 06/09/2014 | | | 27.16 | |
| 2011-03-0050410 | | BAGSBY AARON E JR | 02 | CANNOT LOCATE | 06/09/2014 | | | 114.62 | |
| 2011-03-0050411 | | BAHARANI AKANKSHA | 08 | EXPIRED REGISTRATION | 06/09/2014 | | | 56.22 | |
| 2011-03-0050474 | | BANERJEE NIKHIL | 02 | CANNOT LOCATE | 06/09/2014 | | | 33.41 | |
| 2011-03-0050475 | | BANERJEE SUBHADEEP | 02 | CANNOT LOCATE | 06/09/2014 | | | 78.49 | |
| 2011-03-0050527 | | BARROWS TANNER L | 10 | EXPIRED OR SUSPENDED | 06/09/2014 | | | 65.73 | |
| 2011-03-0050528 | | BARROWS TANNER L | 10 | EXPIRED OR SUSPENDED | 06/09/2014 | | | 54.86 | |
| 2011-03-0050548 | | BARTLETT BARRINGTO E 2ND | 02 | CANNOT LOCATE | 06/09/2014 | | | 271.33 | |
| 2011-03-0050588 | | BATES DAVID S | 02 | CANNOT LOCATE | 06/09/2014 | | | 16.84 | |
| 2011-03-0050589 | | BATES KAREN E | 04 | BANKRUPTCY | 06/09/2014 | | | 88.54 | |

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| Bill # | Dst Name | Code | Reason | Date | Town Due/SuspDist | Due/SuspSewer | Due/Susp | Total |
|-----------------|-----------------------------------|------|----------------------|------------|-------------------|---------------|----------|--------|
| 2011-03-0050606 | BAUERLE TIMOTHY J | 02 | CANNOT LOCATE | 06/09/2014 | | | | 92.34 |
| 2011-03-0050838 | BIRKBECK WILLIAM F | 08 | EXPIRED REGISTRATION | 06/09/2014 | | | | 69.53 |
| 2011-03-0050881 | BLAUMAN PETER F | 05 | MOVED OUT OF STATE | 06/09/2014 | | | | 13.85 |
| 2011-03-0050940 | BONKOWSKI JOHN L JR | 08 | EXPIRED REGISTRATION | 06/09/2014 | | | | 204.51 |
| 2011-03-0051157 | BROWN JESSE L | 02 | CANNOT LOCATE | 06/09/2014 | | | | 185.50 |
| 2011-03-0051159 | BROWN MARIE F | 02 | CANNOT LOCATE | 06/09/2014 | | | | 83.11 |
| 2011-03-0051253 | BURRIS ANTHONY R | 01 | SMALL BALANCE | 06/09/2014 | | | | 3.30 |
| 2011-03-0051274 | BUSWELL WILLIAM A JR | 01 | SMALL BALANCE | 06/09/2014 | | | | 2.16 |
| 2011-03-0051318 | CAIN JAMES T | 02 | CANNOT LOCATE | 06/09/2014 | | | | 62.74 |
| 2011-03-0051538 | CHARRON JASON C OR | 08 | EXPIRED REGISTRATION | 06/09/2014 | | | | 117.33 |
| 2011-03-0051597 | CHEN YONGQIN | 01 | SMALL BALANCE | 06/09/2014 | | | | 4.26 |
| 2011-03-0051903 | COOK TIMOTHY O COM | 02 | CANNOT LOCATE | 06/09/2014 | | | | 151.55 |
| 2011-03-0052001 | COTE GARY D | 01 | SMALL BALANCE | 06/09/2014 | | | | 1.39 |
| 2011-03-0052030 | COX LEE FORREST | 02 | CANNOT LOCATE | 06/09/2014 | | | | 115.97 |
| 2011-03-0052036 | CRAIG RANYELLE S | 02 | CANNOT LOCATE | 06/09/2014 | | | | 231.95 |
| 2011-03-0052187 | DARIUS JELIEL A | 02 | CANNOT LOCATE | 06/09/2014 | | | | 311.25 |
| 2011-03-0052558 | DOYLE BARBARA M C/O BRIAN J DOYLE | 01 | SMALL BALANCE | 06/09/2014 | | | | 0.91 |
| 2011-03-0052618 | DUDZIC JESSICA S | 08 | EXPIRED REGISTRATION | 06/09/2014 | | | | 67.90 |
| 2011-03-0052793 | ELDRIDGE DONALD L JR | 02 | CANNOT LOCATE | 06/09/2014 | | | | 65.73 |
| 2011-03-0052809 | ELLIOTT MICHAEL | 08 | EXPIRED REGISTRATION | 06/09/2014 | | | | 61.38 |
| 2011-03-0052844 | ENGELMAN CURTICE N | 02 | CANNOT LOCATE | 06/09/2014 | | | | 68.99 |
| 2011-03-0052854 | ENNIS JOSEPH P | 10 | EXPIRED OR SUSPENDED | 06/09/2014 | | | | 342.76 |
| 2011-03-0052906 | ESTABROOK RICHARD W | 03 | DECEASED | 06/09/2014 | | | | 328.09 |
| 2011-03-0052961 | FARINA AMERIGO | 01 | SMALL BALANCE | 06/09/2014 | | | | 1.49 |
| 2011-03-0053048 | FIGELLA WILLIAM S JR | 10 | EXPIRED OR SUSPENDED | 06/09/2014 | | | | 71.70 |
| 2011-03-0053100 | FISHER SEAN G | 08 | EXPIRED REGISTRATION | 06/09/2014 | | | | 225.43 |
| 2011-03-0053277 | FUCIMAN MARCEL | 08 | EXPIRED REGISTRATION | 06/09/2014 | | | | 76.05 |
| 2011-03-0053352 | GAN QIWEN | 01 | SMALL BALANCE | 06/09/2014 | | | | 2.60 |
| 2011-03-0053380 | GARDINER SAMANTHA D | 08 | EXPIRED REGISTRATION | 06/09/2014 | | | | 51.33 |
| 2011-03-0053381 | GARDINER SAMANTHA D | 08 | EXPIRED REGISTRATION | 06/09/2014 | | | | 63.83 |
| 2011-03-0053538 | GLANVILLE TAMARA E | 08 | EXPIRED REGISTRATION | 06/09/2014 | | | | 286.54 |
| 2011-03-0053573 | GOLD LARRY M | 02 | CANNOT LOCATE | 06/09/2014 | | | | 173.01 |
| 2011-03-0053666 | GOSSET BENJAMIN L | 05 | MOVED OUT OF STATE | 06/09/2014 | | | | 44.81 |
| 2011-03-0053725 | GREENE CARISSA Y | 05 | MOVED OUT OF STATE | 06/09/2014 | | | | 58.39 |
| 2011-03-0053738 | GREER JOEL T | 08 | EXPIRED REGISTRATION | 06/09/2014 | | | | 294.69 |
| 2011-03-0053763 | GRISAMER LAUREL M | 01 | SMALL BALANCE | 06/09/2014 | | | | 2.41 |
| 2011-03-0053867 | HAENDEL SARAH J | 08 | EXPIRED REGISTRATION | 06/09/2014 | | | | 71.70 |
| 2011-03-0054000 | HARRINGTON COLLEEN A | 02 | CANNOT LOCATE | 06/09/2014 | | | | 66.00 |
| 2011-03-0054095 | HEBERT RAYMOND J | 05 | MOVED OUT OF STATE | 06/09/2014 | | | | 464.98 |
| 2011-03-0054122 | HENDERSON DARLENE L | 02 | CANNOT LOCATE | 06/09/2014 | | | | 69.53 |
| 2011-03-0054148 | HERREID JENNIE M | 02 | CANNOT LOCATE | 06/09/2014 | | | | 51.33 |
| 2011-03-0054160 | HEYWARD SUSAN L | 01 | SMALL BALANCE | 06/09/2014 | | | | 3.45 |
| 2011-03-0054161 | HICKELTON MEGHAN E | 01 | SMALL BALANCE | 06/09/2014 | | | | 2.07 |
| 2011-03-0054172 | HIGGINS REBECCA L | 02 | CANNOT LOCATE | 06/09/2014 | | | | 146.39 |
| 2011-03-0054417 | HULME DOREEN E | 08 | EXPIRED REGISTRATION | 06/09/2014 | | | | 73.33 |
| 2011-03-0054432 | HUNT-FIGUEROA ALEXANDER | 05 | MOVED OUT OF STATE | 06/09/2014 | | | | 36.67 |
| 2011-03-0054601 | JIN YAO | 08 | EXPIRED REGISTRATION | 06/09/2014 | | | | 71.43 |
| 2011-03-0054650 | JOLY DEREK C OR | 01 | SMALL BALANCE | 06/09/2014 | | | | 4.33 |
| 2011-03-0054700 | JORDAN TYLER R | 01 | SMALL BALANCE | 06/09/2014 | | | | 2.53 |
| 2011-03-0054719 | JOU GEOFFREY S | 02 | CANNOT LOCATE | 06/09/2014 | | | | 387.84 |
| 2011-03-0054721 | JUBREY KATIE L | 08 | EXPIRED REGISTRATION | 06/09/2014 | | | | 48.07 |
| 2011-03-0054881 | KEMPSON MATTHEW J | 01 | SMALL BALANCE | 06/09/2014 | | | | 2.00 |
| 2011-03-0054917 | KETTLE AMBER L | 02 | CANNOT LOCATE | 06/09/2014 | | | | 55.68 |
| 2011-03-0054918 | KETTLE AMBER L | 02 | CANNOT LOCATE | 06/09/2014 | | | | 44.27 |

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Modify Suspense Report

TOWN OF MANSFIELD Date: 06/13/2014 Time: 11:12:23

Condition (s): Year: 2012, Type: 14 - CODE T, Order: Bill Number, Total Only: No, Recap by Dist: No

| Bill # | Dst | Name | Code | Reason | Date | Town Due/SuspDist | Due/SuspSewer | Due/Susp | Total |
|-----------------|-----|-------------------------|------|----------------------|------------|-------------------|---------------|----------|-------|
| 2011-03-0054919 | | KEY JAMES L | 09 | VEHICLE SOLD | 06/09/2014 | | | 37.62 | |
| 2011-03-0054929 | | KHOKHAR MUHAMMAD U | 02 | CANNOT LOCATE | 06/09/2014 | | | 44.81 | |
| 2011-03-0054930 | | KHOKHAR MUHAMMAD U | 02 | CANNOT LOCATE | 06/09/2014 | | | 283.28 | |
| 2011-03-0054955 | | KIM CHOONAH | 02 | CANNOT LOCATE | 06/09/2014 | | | 21.64 | |
| 2011-03-0055079 | | KOCHIS KELLY A | 05 | MOVED OUT OF STATE | 06/09/2014 | | | 26.40 | |
| 2011-03-0055080 | | KOCHIS KEVIN P | 02 | CANNOT LOCATE | 06/09/2014 | | | 134.44 | |
| 2011-03-0055183 | | KRISHNAN PRASAD | 01 | SMALL BALANCE | 06/09/2014 | | | 2.03 | |
| 2011-03-0055416 | | LAURITZEN WILLIAM S | 08 | EXPIRED REGISTRATION | 06/09/2014 | | | 183.06 | |
| 2011-03-0055434 | | LAW GERTRUDE G | 08 | EXPIRED REGISTRATION | 06/09/2014 | | | 223.80 | |
| 2011-03-0055461 | | LEAKE MARY B | 08 | EXPIRED REGISTRATION | 06/09/2014 | | | 40.47 | |
| 2011-03-0055529 | | LEID ULYSSES N | 02 | CANNOT LOCATE | 06/09/2014 | | | 81.21 | |
| 2011-03-0055605 | | LI MING | 02 | CANNOT LOCATE | 06/09/2014 | | | 243.35 | |
| 2011-03-0055616 | | LI YUEAN | 02 | CANNOT LOCATE | 06/09/2014 | | | 201.53 | |
| 2011-03-0055641 | | LIN CHAOHAI | 02 | CANNOT LOCATE | 06/09/2014 | | | 339.77 | |
| 2011-03-0055688 | | LIU CHUNYANG | 02 | CANNOT LOCATE | 06/09/2014 | | | 115.16 | |
| 2011-03-0055693 | | LIU QINDONG | 02 | CANNOT LOCATE | 06/09/2014 | | | 112.17 | |
| 2011-03-0055695 | | LIU RONALD S | 01 | SMALL BALANCE | 06/09/2014 | | | 1.89 | |
| 2011-03-0055717 | | LIZEE MARIE E | 02 | CANNOT LOCATE | 06/09/2014 | | | 136.34 | |
| 2011-03-0055770 | | LOTT MICHAEL S | 08 | EXPIRED REGISTRATION | 06/09/2014 | | | 108.91 | |
| 2011-03-0055812 | | LUCAS ARRON BRYANT | 02 | CANNOT LOCATE | 06/09/2014 | | | 67.90 | |
| 2011-03-0055831 | | LUO QIASI | 01 | SMALL BALANCE | 06/09/2014 | | | 1.18 | |
| 2011-03-0055866 | | M AND M GENERAL SVC | 08 | EXPIRED REGISTRATION | 06/09/2014 | | | 56.76 | |
| 2011-03-0055900 | | MACWILLIAMS BRYAN T | 01 | SMALL BALANCE | 06/09/2014 | | | 2.18 | |
| 2011-03-0056006 | | MANN ANGELA | 01 | SMALL BALANCE | 06/09/2014 | | | 0.55 | |
| 2011-03-0056029 | | MANSFIELD KATIE L | 02 | CANNOT LOCATE | 06/09/2014 | | | 167.85 | |
| 2011-03-0056091 | | MARRERO AIDA L | 01 | SMALL BALANCE | 06/09/2014 | | | 4.00 | |
| 2011-03-0056152 | | MARTINEZ CABRERA HUGO I | 02 | CANNOT LOCATE | 06/09/2014 | | | 81.75 | |
| 2011-03-0056194 | | MATHEWS KELSEY M | 08 | EXPIRED REGISTRATION | 06/09/2014 | | | 78.49 | |
| 2011-03-0056288 | | MCDONALD DANIEL C | 05 | MOVED OUT OF STATE | 06/09/2014 | | | 127.38 | |
| 2011-03-0056402 | | MEDEIROS CHRISTINA F | 08 | EXPIRED REGISTRATION | 06/09/2014 | | | 399.80 | |
| 2011-03-0056480 | | METELL GERLINDE M | 05 | MOVED OUT OF STATE | 06/09/2014 | | | 24.36 | |
| 2011-03-0056511 | | MIGLIOZZI KATHERINE E | 01 | SMALL BALANCE | 06/09/2014 | | | 2.27 | |
| 2011-03-0056560 | | MILLETTE JENNIFER L | 02 | CANNOT LOCATE | 06/09/2014 | | | 173.01 | |
| 2011-03-0056571 | | MILLS NORMA J | 01 | SMALL BALANCE | 06/09/2014 | | | 5.43 | |
| 2011-03-0056572 | | MILLS NORMAL J | 03 | DECEASED | 06/09/2014 | | | 23.90 | |
| 2011-03-0056904 | | MYHRO CHRISTOPHER M | 08 | EXPIRED REGISTRATION | 06/09/2014 | | | 287.62 | |
| 2011-03-0056929 | | NAMBA NICHOLAS S | 08 | EXPIRED REGISTRATION | 06/09/2014 | | | 316.14 | JNT |
| 2011-03-0056934 | | NAPPI DANA N | 08 | EXPIRED REGISTRATION | 06/09/2014 | | | 45.09 | |
| 2011-03-0057199 | | NORTH PHILLIP A | 02 | CANNOT LOCATE | 06/09/2014 | | | 83.65 | |
| 2011-03-0057239 | | OESTERLE BRUNO | 02 | CANNOT LOCATE | 06/09/2014 | | | 70.89 | OR |
| 2011-03-0057323 | | ORLANDO TODD M | 02 | CANNOT LOCATE | 06/09/2014 | | | 145.58 | |
| 2011-03-0057443 | | PAPKA BOZHENA | 02 | CANNOT LOCATE | 06/09/2014 | | | 60.81 | |
| 2011-03-0057518 | | PATRONE FREDERICK T | 02 | CANNOT LOCATE | 06/09/2014 | | | 127.38 | |
| 2011-03-0057593 | | PELRINE MATTHEW J | 02 | CANNOT LOCATE | 06/09/2014 | | | 167.31 | |
| 2011-03-0057877 | | PRATES MARCOS O | 02 | CANNOT LOCATE | 06/09/2014 | | | 68.99 | |
| 2011-03-0057925 | | QIAN QIXIAO | 09 | VEHICLE SOLD | 06/09/2014 | | | 392.19 | |
| 2011-03-0058027 | | RAUTENBERG JOHN T | 02 | CANNOT LOCATE | 06/09/2014 | | | 88.54 | |
| 2011-03-0058042 | | RAYMOND SHAUNA N | 08 | EXPIRED REGISTRATION | 06/09/2014 | | | 54.32 | |
| 2011-03-0058062 | | REDDY CHRISTOPHER D | 02 | CANNOT LOCATE | 06/09/2014 | | | 93.43 | |
| 2011-03-0058074 | | REICHEL THOMAS H | 08 | EXPIRED REGISTRATION | 06/09/2014 | | | 114.62 | |
| 2011-03-0058101 | | REMILLARD DEBORA L | 05 | MOVED OUT OF STATE | 06/09/2014 | | | 312.34 | |
| 2011-03-0058126 | | REYNOLDS JAMES H | 01 | SMALL BALANCE | 06/09/2014 | | | 0.67 | |
| 2011-03-0058177 | | RICHARDS JOSEPH P | 02 | CANNOT LOCATE | 06/09/2014 | | | 142.32 | |
| 2011-03-0058231 | | RIVERA DOREEN L | 08 | EXPIRED REGISTRATION | 06/09/2014 | | | 32.32 | |

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Modify Suspense Report

TOWN OF MANSFIELD Date: 06/13/2014 Time: 11:12:23

Condition (s): Year: 2012, Type: 14 - CODE T, Order: Bill Number, Total Only: No, Recap by Dist: No

| Bill # | Dst Name | Code | Reason | Date | Town Due/SuspDist Due/SuspSewer Due/Susp | Total |
|-----------------|--------------------------|------|----------------------|------------|--|-----------|
| 2011-03-0058312 | ROE DAVID S | 02 | CANNOT LOCATE | 06/09/2014 | | 77.41 |
| 2011-03-0058334 | ROLLER JUSTIN | 01 | SMALL BALANCE | 06/09/2014 | | 3.21 |
| 2011-03-0058349 | ROMYEN NATTHAKARN | 02 | CANNOT LOCATE | 06/09/2014 | | 81.75 |
| 2011-03-0058449 | ROWLAND CLARE S | 08 | EXPIRED REGISTRATION | 06/09/2014 | | 13.58 |
| 2011-03-0058533 | SAFFIN JARROD R | 08 | EXPIRED REGISTRATION | 06/09/2014 | | 13.58 |
| 2011-03-0058683 | SCHLETTER MICHAEL C | 08 | EXPIRED REGISTRATION | 06/09/2014 | | 166.76 |
| 2011-03-0058777 | SENE JULES M | 09 | VEHICLE SOLD | 06/09/2014 | | 362.59 |
| 2011-03-0058783 | SEO JOONYOUNG | 08 | EXPIRED REGISTRATION | 06/09/2014 | | 222.44 |
| 2011-03-0058833 | SHAMBAMUTO BEZIEL | 02 | CANNOT LOCATE | 06/09/2014 | | 104.57 |
| 2011-03-0058935 | SHRESTHA GRISHMA | 05 | MOVED OUT OF STATE | 06/09/2014 | | 177.35 |
| 2011-03-0059033 | SKELLY AMANDA L | 02 | CANNOT LOCATE | 06/09/2014 | | 361.23 |
| 2011-03-0059164 | SNAPE ROLAND F | 09 | VEHICLE SOLD | 06/09/2014 | | 199.22 |
| 2011-03-0059438 | STELLA-SOMOZA JUAN M | 08 | EXPIRED REGISTRATION | 06/09/2014 | | 133.63 |
| 2011-03-0059539 | STRICKLAND ERIC G CMN | 05 | MOVED OUT OF STATE | 06/09/2014 | | 105.11 |
| 2011-03-0059589 | SUPLICKI STANLEY E JR | 08 | EXPIRED REGISTRATION | 06/09/2014 | | 97.20 |
| 2011-03-0059590 | SUPLICKI STANLEY E JR | 08 | EXPIRED REGISTRATION | 06/09/2014 | | 89.08 |
| 2011-03-0059625 | SWEET CHRISTOPHER D | 02 | CANNOT LOCATE | 06/09/2014 | | 163.50 |
| 2011-03-0059649 | SZYMANCZYK PAUL | 02 | CANNOT LOCATE | 06/09/2014 | | 152.10 |
| 2011-03-0059894 | TOLER JOSHUA D | 08 | EXPIRED REGISTRATION | 06/09/2014 | | 110.27 |
| 2011-03-0060059 | TSUJI ALEXANDER Y | 08 | EXPIRED REGISTRATION | 06/09/2014 | | 107.01 |
| 2011-03-0060125 | URIN PATIH | 02 | CANNOT LOCATE | 06/09/2014 | | 37.48 |
| 2011-03-0060156 | VANOVER JASMINE N | 02 | CANNOT LOCATE | 06/09/2014 | | 31.51 |
| 2011-03-0060172 | VASA SATYAHARSHA V | 05 | MOVED OUT OF STATE | 06/09/2014 | | 72.25 |
| 2011-03-0060193 | VENKATESAN ADITHYA | 02 | CANNOT LOCATE | 06/09/2014 | | 55.13 |
| 2011-03-0060249 | VISNY AMANDA L | 02 | CANNOT LOCATE | 06/09/2014 | | 76.59 |
| 2011-03-0060298 | WAHOME NEWTON M | 05 | MOVED OUT OF STATE | 06/09/2014 | | 63.28 |
| 2011-03-0060324 | WALSH MELINDA S | 02 | CANNOT LOCATE | 06/09/2014 | | 107.55 |
| 2011-03-0060345 | WANG JUSTI | 02 | CANNOT LOCATE | 06/09/2014 | | 178.17 |
| 2011-03-0060350 | WANG SHIMIN AND | 05 | MOVED OUT OF STATE | 06/09/2014 | | 291.43 |
| 2011-03-0060480 | WEIGEL GRIFFIN K | 08 | EXPIRED REGISTRATION | 06/09/2014 | | 99.41 |
| 2011-03-0060487 | WEINSTEIN AARON R | 02 | CANNOT LOCATE | 06/09/2014 | | 96.96 |
| 2011-03-0060548 | WESTLAKE VINCENT | 01 | SMALL BALANCE | 06/09/2014 | | 0.29 |
| 2011-03-0060574 | WHITAKER KYLE J | 01 | SMALL BALANCE | 06/09/2014 | | 0.01 |
| 2011-03-0060713 | WONG JONATHAN P | 08 | EXPIRED REGISTRATION | 06/09/2014 | | 260.46 |
| 2011-03-0060820 | XIN JIAN | 02 | CANNOT LOCATE | 06/09/2014 | | 233.85 |
| 2011-03-0060821 | XIN JIAN | 02 | CANNOT LOCATE | 06/09/2014 | | 365.57 |
| 2011-03-0060986 | ZHU CHEN | 02 | CANNOT LOCATE | 06/09/2014 | | 72.25 |
| MV REGULAR | # Of Acct: 161 | | | | | 18,590.41 |
| 2011-04-0080035 | ALMUJIL ABDULAZIZ NASSER | 09 | VEHICLE SOLD | 06/09/2014 | | 105.98 |
| 2011-04-0080189 | BROWN JACQUELIN A | 01 | SMALL BALANCE | 06/09/2014 | | 2.00 |
| 2011-04-0080218 | BUSWELL WILLIAM A JR | 08 | EXPIRED REGISTRATION | 06/09/2014 | | 231.86 |
| 2011-04-0080243 | CASANOVA MARTITA | 08 | EXPIRED REGISTRATION | 06/09/2014 | | 48.64 |
| 2011-04-0080343 | DARIUS JELIEL A | 02 | CANNOT LOCATE | 06/09/2014 | | 50.58 |
| 2011-04-0080539 | GALE SHARON ANN | 03 | DECEASED | 06/09/2014 | | 13.34 |
| 2011-04-0080823 | KIM HYUNCHUL | 02 | CANNOT LOCATE | 06/09/2014 | | 78.71 |
| 2011-04-0080966 | LOTT MICHAEL S | 08 | EXPIRED REGISTRATION | 06/09/2014 | | 116.79 |
| 2011-04-0080974 | LUCERA LUCA | 09 | VEHICLE SOLD | 06/09/2014 | | 78.49 |
| 2011-04-0081114 | MORANO MICHAEL A | 01 | SMALL BALANCE | 06/09/2014 | | 1.75 |
| 2011-04-0081133 | MUENZNER DONNA E | 08 | EXPIRED REGISTRATION | 06/09/2014 | | 52.42 |
| 2011-04-0081206 | PEMBE NAPITALI N | 09 | VEHICLE SOLD | 06/09/2014 | | 73.33 |
| 2011-04-0081337 | RAYMOND SHAUNA N | 08 | EXPIRED REGISTRATION | 06/09/2014 | | 23.74 |
| 2011-04-0081425 | SARASOLA-SANZ ANDREA | 08 | EXPIRED REGISTRATION | 06/09/2014 | | 116.52 |

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Modify Suspense Report

TOWN OF MANSFIELD Date: 06/13/2014 Time: 11:12:24

Condition (s): Year: 2012, Type: 14 - CODE T, Order: Bill Number, Total Only: No, Recap by Dist: No

| Bill # | Dst Name | Code | Reason | Date | Town Due/Susp | Dist Due/Susp | Sewer Due/Susp | Total |
|------------------|-----------------------|------|----------------------|------------|---------------|---------------|----------------|-------|
| 2011-04-0081439 | SCHROFEL ADAM | 08 | EXPIRED REGISTRATION | 06/09/2014 | 106.36 | | | |
| 2011-04-0081586 | SUPLICKI STANLEY E JR | 08 | EXPIRED REGISTRATION | 06/09/2014 | 56.52 | | | |
| 2011-04-0081838 | ZHANG QUANXIN | 02 | CANNOT LOCATE | 06/09/2014 | 34.25 | | | |
| 2011-04-0082217 | AMARU DAWN M | 02 | CANNOT LOCATE | 06/09/2014 | 21.40 | | | |
| MV SUPPLEMENTAL | # Of Acct: 18 | | | | 1,212.78 | | | |
| YR : 2011 | TOTAL : 187 | | | | 22,597.52 | | | |
| Grand Total: 438 | | | | | 53,531.81 | | | |

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**Town of Mansfield
Agenda Item Summary**

To: Town Council
From: Matt Hart, Town Manager *MWH*
CC: Maria Capriola, Assistant Town Manager; Cynthia van Zelm, Executive Director, Mansfield Downtown Partnership
Date: June 23, 2014
Re: Council Appointment to Parking Steering Committee

Subject Matter/Background

The Council established the Parking Steering Committee for Storrs Center on August 10, 2009 and appointed members to the Committee on September 14, 2009. A seat on the Committee is reserved for a Council member; former Councilor Meredith Lindsey initially served in this role and the position has been vacant since Ms. Lindsey's departure from the Council. Councilor Alex Marcellino has recently expressed an interest in serving as the Town Council representative.

The Parking Steering Committee was established as an *ad-hoc* committee and its members do not have specific terms. The current members are as follows:

- Ralph Pemberton, Director of Building and Grounds, Regional School District #19
- Dwight Atherton, Parking and Transportation Services Administrator, Parking Services for the University of Connecticut
- Karla Fox, Mansfield Downtown Partnership Planning and Design Committee member
- Manny Haidous, representing the owners of University Plaza
- Michael Taylor, representing the Transportation Advisory Committee and owner of Storrs Commons
- Melinda Perkins, Windham Region Transit District (WRTD) Administrator

On a related note, the committee also includes the following staff and *ex officio* members:

- Town Manager
- Director of Public Works
- Executive Director of the Mansfield Downtown Partnership
- Town's Parking Consultant (used on an as-needed basis)
- Representative from Master Developer LeylandAlliance

Given the fact that Hart Realty Advisors is managing elements of the retail components of the project, staff advises that they be added as an *ex officio* member.

Recommendation

The following motions are suggested:

Move, effective June 23, 2014, to appoint Alex Marcellino to the Parking Steering Committee for Storrs Center, as the Town Council representative.

Move, effective June 23, 2014, to add one ex officio position for Hart Realty Advisors to the Parking Steering Committee for Storrs Center.

Attachments

- 1) Resolution to Establish and Issue Charge to a Parking Steering Committee for Storrs Center (08/10/09)
- 2) Resolution to Appoint Members of Parking Steering Committee for Storrs Center (08/10/09)
- 3) Resolution to Appoint Members of Parking Steering Committee for Storrs Center (09/14/09)

RESOLUTION TO ESTABLISH AND ISSUE CHARGE TO A
PARKING STEERING COMMITTEE FOR STORRS CENTER

(Approved August 10, 2009)

WHEREAS, THE STORRS CENTER DOWNTOWN PROJECT INCORPORATES A MIX OF USES INCLUDING SHOPS, RESTAURANTS, OFFICES, HOUSING, PARKS, AND OPEN SPACE; AND

WHEREAS, A VARIETY OF PARKING, INCLUDING AN INTERMODAL FACILITY, ON-STREET AND SURFACE PARKING, IS NEEDED TO ACCOMMODATE THE USES ASSOCIATED WITH STORRS CENTER; AND

WHEREAS, THE STORRS CENTER SPECIAL DESIGN DISTRICT MASTER PARKING STUDY WAS APPROVED BY THE MANSFIELD PLANNING AND ZONING COMMISSION AS PART OF THE STORRS CENTER SPECIAL DESIGN DISTRICT ON JUNE 18, 2007, WHICH REQUIRES THAT A SPECIFIC NUMBER OF PARKING SPACES, BY USE, BE INCLUDED IN THE STORRS CENTER PROJECT; AND

WHEREAS, IT IS IMPERATIVE THAT PARKING AT STORRS CENTER BE USER-FRIENDLY, CONVENIENT, AND AFFORDABLE; AND

WHEREAS, THE TOWN OF MANSFIELD WILL OWN THE INITIAL INTERMODAL FACILITY AND THE INTERIOR STREETS IN STORRS CENTER; AND

WHEREAS, THE STORRS CENTER PROJECT RECEIVED ONE OF ITS LAST MAJOR APPROVALS (A PERMIT FOR IMPROVEMENTS TO STORRS ROAD) ON JUNE 16, 2009, AND THE PROJECT IS CONTINUING TO PROGRESS TOWARD CONSTRUCTION, NECESSITATING THE NEED TO MOVE FORWARD ON A PARKING MANAGEMENT PLAN; AND

WHEREAS, THERE ARE SEVERAL TOWN, UNIVERSITY OF CONNECTICUT, AND PRIVATE SURFACE PARKING LOTS IMMEDIATELY ADJACENT TO THE STORRS CENTER PROJECT AREA THAT WILL BE AFFECTED BY PARKING FOR STORRS CENTER; AND

WHEREAS, THE INPUT OF ADJACENT PROPERTY OWNERS, OTHER INTERESTED PARTIES AND THE MANSFIELD COMMUNITY IS NECESSARY FOR THE DEVELOPMENT OF A PARKING MANAGEMENT PLAN THAT MEETS THE GOALS OF STORRS CENTER; AND

WHEREAS, AN ADVISORY STEERING COMMITTEE WOULD ASSIST THE TOWN AND THE MANSFIELD DOWNTOWN PARTNERSHIP IN PLANNING FOR PARKING IN STORRS CENTER; AND

WHEREAS, THE TOWN COUNCIL DESIRES TO ESTABLISH A STEERING COMMITTEE TO ASSIST IN THE COORDINATION AND PLANNING FOR PARKING AT STORRS CENTER;

NOW, THEREFORE BE IT RESOLVED THAT:

A Parking Steering Committee is established for the Storrs Center project and is authorized to perform the following charge:

- Oversee development of a parking management plan for Storrs Center (intermodal facility, surface parking, on-street parking, and adjacent parking areas) including but not limited to an evaluation of parking management strategies; parking operational systems; development of access control and enforcement strategies; evaluation of the cost of operational and enforcement systems; creation of regulatory and wayfinding parking signage; creation of a public communications strategy about parking options;
- Assist Town of Mansfield staff and the Town Transportation Advisory Committee with public transportation issues;
- Assist with information sharing and public input for the project amongst adjacent property owners, other interested parties and the Mansfield community;
- Present the management plan to the Mansfield Downtown Partnership's Board of Directors for its review and endorsement; and
- Present the management plan to the Town Council for its review and approval.

RESOLUTION TO APPOINT MEMBERS OF
PARKING STEERING COMMITTEE FOR STORRS CENTER

(Approved August 10, 2009)

WHEREAS, the Town Council desires to appoint a Parking Steering Committee for Storrs Center:

NOW, THEREFORE, BE IT RESOLVED TO:

Appoint a Storrs Center Parking Steering Committee with the following members:

- Town Council (at least one member)
- One representative from Regional School District #19
- One representative from the University of Connecticut
- One representative from the Mansfield Downtown Partnership
- Two Mansfield citizens including at least one adjacent private property owner, and one who is interested in public transportation as recommended by the Transportation Advisory Committee
- One representative from a local public transportation provider

Staff and Ex-officio members:

1. Town Manager
2. Town of Mansfield Public Works Director
3. Mansfield Downtown Partnership, Inc. Executive Director
4. Town's Parking consultant
5. One representative from Storrs Center master developer, LeylandAlliance



Town of Mansfield
TOWN COUNCIL

Resolution to Appoint Members of a Parking Steering Committee for Storrs Center

September 14, 2009

WHEREAS, on August 10, 2009, the Mansfield Town Council approved a resolution to establish a parking steering committee for Storrs Center; and

WHEREAS, on August 10, 2009, the Town Council approved a resolution to appoint members to the parking steering committee:

NOW, THEREFORE BE IT RESOLVED THAT:

The following members are appointed to the Storrs Center Parking Steering Committee:

- Ralph Pemberton, Director, Building and Grounds, Regional School District #19
- Martha Funderburk, Acting Manager, Parking Services for the University of Connecticut
- Karla Fox, Mansfield Downtown Partnership Planning and Design Committee member
- Manny Haidous, representing the owners of University Plaza
- Michael Taylor, representing the Town's Transportation Advisory Committee and the owner of Storrs Commons
- Melinda Perkins, Windham Region Transit District (WRTD) Administrator

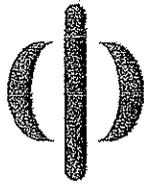
Committee on Committees

June 13, 2014

At the June 13, 2014 meeting of the Committee on Committees, the following recommendation was approved:

The appointment of Sabrina Hosmer to the Mansfield Advocates for Children for a term ending 6/30/2017.

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Smoke-Free Parks:

A comprehensive review of the policy considerations underlying state and municipal smoke-free parks laws

March 2014

Smoke Free Parks:

A comprehensive review of the policy considerations underlying state and municipal smoke-free parks laws

Todd D. Fraley, JD
Kate Sheridan, MPH
Joel J. Africk, JD
Matt Maloney

Smoke-free parks policies have increased in popularity over the last decade. As of January, 2014, more than 900 municipalities in the U.S have enacted smoke-free parks policies. Several dozen additional municipalities are currently weighing policy options regarding smoke-free parks. Notwithstanding the current trend, some demographic disparities exist among communities adopting smoke-free parks policies. As public health organizations work to address the disproportionate impact of tobacco use on economically underdeveloped communities and other vulnerable populations, such as youth, it will be more important than ever to enact health policies supported by data. The paper examines the justifications for smoke-free park policies, specifically: (1) the individual health impact of exposure to outdoor tobacco smoke; (2) the environmental impact of tobacco litter; and (3) the public health impact of reinforcing smoke-free environments as a social norm. The paper also identifies some of the arguments used most frequently in opposition to such ordinances. Finally, this paper presents some of the leading policy considerations for communities contemplating the adoption of smoke-free parks.

This paper was made possible by a grant from the Centers for Disease Control and Prevention (CDC) (Grant Number: 1H75DP004181-01) to the Chicago Public Schools (CPS) Office of Student Health and Wellness, Healthy CPS. The views expressed in this publication do not necessarily reflect the views, opinions and official policies of CDC.

This paper has been written with a general audience in mind and is provided for educational purposes only and is not to be construed as legal opinion. Policy makers considering regulating smoking in outdoor environments within their municipalities should consult with their city law departments or other legal counsel.

I. INTRODUCTION

Exactly 50 years ago, the U.S. Surgeon General first reported that “[c]igarette smoking is a health hazard of significant importance in the United States to warrant appropriate remedial action.”¹ In the years that followed, researchers developed a robust body of evidence on the dangers of smoking and exposure to secondhand smoke. Policymakers began to take remedial action. Initially, legislation focused on establishing clean indoor air spaces. Starting with early clean indoor air laws passed by municipalities in the 1970s, tobacco control advocates ensured that air in offices, restaurants and bars, government facilities, hospitals, sporting areas, and even casinos, would be free of the toxins and cancer-causing agents found in secondhand smoke. Today, approximately 4,000 municipalities have laws that restrict where smoking is allowed.² Furthermore, more than 1,000 municipalities, along with 36 states, the District of Columbia, American Samoa, the Northern Mariana Islands, Puerto Rico, the U.S. Virgin Islands, and at least 92 countries have enacted 100 percent comprehensive smoke-free workplace laws, inclusive of restaurants and bars.³ It is estimated that 81 percent of the U.S. population live in states or communities with clean air laws in place.⁴

The global smoke-free movement is now shifting its efforts to ensure safe outdoor air. Regulations providing outdoor smoke-free areas have doubled since 2008, with approximately 2,600 policies currently in place.⁵ Of particular interest to public health advocates and policymakers are areas frequented by youth, such as parks, beaches, playgrounds, and plazas. Youth-targeted interventions are critical because of the link between youth and smoking: nine out of ten smokers start before the age of eighteen.⁶ Likewise, for children, even brief exposure to secondhand smoke can trigger asthma attacks and can cause wheezing and coughing.⁷

As of January, 2014, more than 900 municipalities, as well as the State of Oklahoma and Commonwealth of Puerto Rico, have made their parks smoke-free.⁸ Among these 900 municipalities are some of the U.S.’s major metropolitan areas, including, Atlanta, GA; Austin, TX; Boston, MA; Miami/Dade County, FL; New York, NY; Philadelphia, PA; Salt Lake City, UT; San Francisco, CA; and Seattle, WA. Related, nearly 200 municipalities have passed smoke-free beach laws.⁹ The popularity of these policies with policymakers, while increasing, has not been uniform. Recent studies have identified large coverage gaps in outdoor tobacco policies.¹⁰ According to a 2014 Ohio State University study, smoke-free park policies exist primarily in young, urban, educated, and liberal-voting communities.¹⁰ In the future, there will be heightened pressure for smoke-free parks in a more diverse range of locations. In August, 2013, it was estimated that around 90 municipalities were exploring smoke-free park policy options.⁵

Smoke-free parks policies have been endorsed by the Centers for Disease Control and Prevention (CDC) as an effective means of youth tobacco prevention. In its annual publication, *Best Practices for Comprehensive Tobacco Control Programs*, the CDC lists parks and beaches as targeted areas for community-led environmental change (along with more traditional targets of tobacco control initiatives, like workplaces, schools, and tobacco retailers).¹¹ This endorsement is echoed in the CDC’s guide,

Protecting Your Children From Tobacco Use, which lists “ban[ning] smoking in public places – such as . . . parks” as one local policy option that has been shown to “work best” to prevent youth tobacco use.²²

As public health organizations work to address the disproportionate impact of tobacco use on economically underdeveloped communities and other vulnerable populations, it will be more important than ever to enact health policies supported by data. Evidence supporting smoke-free parks policies generally falls into three broad categories: (1) individual health impact to nonsmokers; (2) environmental impact of tobacco litter; and (3) public health impact of reinforcing smoke-free as a social norm. As an expansion of smoke-free parks policies is likely to occur, it is the goal of this paper to provide public health officials, tobacco control advocates, and other stakeholders with a review of the available studies from these three categories, as well as a number of policy considerations and lessons learned based on previous cities’ smoke-free parks initiatives. Many of the evidence and policy considerations outlined in this paper could also be applied to smoke-free beaches, playgrounds, and plazas; however, for the purposes of this paper, the focus will center on parks.

II. INDIVIDUAL HEALTH CONCERNS

When it comes to individual health concerns cited in support of smoke-free park policies, proponents often cite the general, well-known harms of exposure to secondhand smoke and the ongoing research into the effects of secondhand smoke in outdoor environments. This section outlines many of the leading studies in these areas and identifies some of the acknowledged evidentiary gaps.

It is important to note that this section only outlines the outdoor tobacco smoke studies that are most directly applicable to a smoke-free parks policy argument. Several studies have examined smoke levels in high-density outdoor environments, such as restaurant and bar patios and the entranceways to office buildings.¹ These studies, while involving outdoor tobacco smoke, are more appropriate for support of smoke-free workplace policies than smoke-free park policies. While evidence exists as to the dangers of exposure to secondhand smoke, proponents are advised to exercise caution not to overreach when amassing studies on outdoor tobacco smoke or to overstate the conclusions of the directly applicable studies.

¹ See, e.g., Licht, et al. (2013). Secondhand smoke exposure levels in outdoor hospitality venues: a quantitative and qualitative review of the research literature. *Tob Control*. 22(3):172-9; St Helen G, et al. (2012). Exposure to secondhand smoke outside of a bar and a restaurant and tobacco exposure biomarkers in nonsmokers. *Environ Health Perspect*. 120(7):1010-6; Cameron M, et al. (2009). Secondhand smoke exposure (PM2.5) in outdoor dining areas and its correlates. *Tob Control*. 19(1):19-23; Hall JC, et al. (2009). Assessment of Exposure to Secondhand Smoke at Outdoor Bars and Family Restaurants in Athens, Georgia, Using Salivary Cotinine. *Journal of Environmental and Occupational Hygiene*. 6(11): 698-704.

a. **Secondhand Smoke – Generally**

- In 2006, the U.S. Surgeon General published a comprehensive report examining the health effects of involuntary exposure to tobacco smoke. The major conclusion of the report was that “[t]here is no risk-free level of exposure to secondhand smoke.”¹³ That applies to both indoor and outdoor exposure to secondhand smoke. Among the report’s relevant conclusions:
 - Secondhand smoke causes disease and premature death in children who do not smoke;
 - Children exposed to secondhand smoke are at higher risk for sudden infant death syndrome (SIDS), acute respiratory infections, ear problems, and more severe asthma; and
 - Exposure to secondhand smoke has immediate effects on the cardiovascular system, causes heart disease, and causes lung cancer.
- Secondhand smoke contains more than 7,000 chemicals, including approximately 70 known human carcinogens (cancer-causing agents).⁷ In addition, secondhand smoke contains dozens of chemicals identified as outdoor air pollutants or hazardous air pollutants, dozens of chemicals restricted as hazardous waste, and nearly 200 more substances found to be toxic.¹⁴ Chemicals present in secondhand smoke include, formaldehyde, benzene, vinyl chloride, arsenic, ammonia, and hydrogen cyanide.¹³
- In 2006, the California Air Resources Board identified environmental tobacco smoke (ETS), or secondhand smoke, as a toxic air contaminant.¹⁵ ETS is now formally identified as an airborne toxic substance that may cause and/or contribute to death or serious illness. By identifying ETS as a *toxic air contaminant*, the Air Resources Board placed secondhand smoke in the same category as the most toxic automotive and industrial air pollutants, for which there is no safe level of exposure.¹⁵ According to the report, “nicotine concentrations in several different outdoor environments were comparable to those found in smokers’ homes.”¹⁵

b. **Outdoor Tobacco Smoke**

- In 2007, a Stanford University study on outdoor secondhand smoke exposure found that “a non-smoker sitting a few feet downwind from a smoldering cigarette is likely to be exposed to substantial levels of contaminated air for brief periods of time.”¹⁶ The air pollution levels within a few feet of outdoor smokers were, in fact, comparable to indoor levels that the researchers had measured in a previous study of homes and bars.¹⁶ According to the study, “[a] nonsmoker who is 1 or 2 feet away from a single burning cigarette can easily inhale pollution that is 10 times greater, on average, than background ‘clean’ levels...However, with multiple smokers present, the average levels could be 20, 30, or 50+ times greater than background.”¹⁷ The researchers noted that based on their findings, “a child in close proximity to adult smokers at a backyard party . . . could receive substantial exposure to secondhand smoke.”¹⁶ While the study found that outdoor smoke levels within a few feet of a smoker can be as high outdoors as indoors, the study noted that outdoor tobacco smoke dissipated quickly once combustion ended. In addition, the study showed that once you move six feet away from the smoker,

exposure to secondhand smoke is significantly reduced. The lead author of the study recently stated that it is still "up in the air" whether outdoor secondhand smoke presents a long-term health issue for those exposed.⁵

- In a 2005 study of outdoor tobacco smoke conducted at University of Maryland at Baltimore, researchers found that outdoor tobacco smoke levels did not reach acceptable background levels for either fine particles or carcinogens until the recipient was about 23 feet from the source of the secondhand smoke.¹⁸
- A 2013 South Korean study on outdoor tobacco smoke found that ambient particulate matter from a single lit cigarette was detectable in outdoor air as far as 30 feet from the smoking source. Levels of particulate matter at 30 feet were still able to reach levels nearly three times higher than the threshold set by the U.S. National Ambient Air Quality Standard. Within three feet of the cigarette, the particulate matter was able to reach a peak 93 times higher than the threshold.¹⁹

III. ENVIRONMENTAL CONCERNS

Environmental concerns are another frequent reason cited for enacting smoke-free parks policies. Cigarette butts are the most littered item in the U.S. and the world. Litter is a blight on streets, sidewalks, and green spaces. Clean-up costs associated with discarded tobacco products can be staggeringly large. Studies also demonstrate the potential for environmental contamination. Policies establishing smoke-free outdoor spaces can reduce tobacco litter in those environments.

a. Litter

- Cigarette butts are the single most littered item both in the U.S. and across the globe.²⁰ In the U.S., approximately 250 billion cigarette butts are littered every year.²¹ This accounts for, on average, 22-36 percent of all visible litter.²² Worldwide, more than 4.5 trillion cigarette butts are littered annually.²³
- More than half of all cigarettes smoked end up being littered. Based on surveys of smokers, the overall littering rate for cigarette butts is estimated at 65 percent.²⁴ However, tobacco control advocates cite that, at least in the context of beaches, smoke-free laws could help reduce littered butts by 45 percent.²⁵
- Discarded cigarettes can be a major cause of fires, especially in arid environments. In support of a smoke-free parks ordinance in Austin, TX, the Austin Fire Department reported that 9 out of 10 roadside fires and 25 percent of all wildfires were caused by littered cigarettes.²⁶
- Cigarette butts are photodegradable, not biodegradable.²⁷ Contemporary cigarette filters are not made of organic materials like cotton or wool, but a synthetic material called cellulose acetate.²⁷ Biodegradable materials can be consumed by microorganisms and reverted to naturally occurring compounds. Cellulose acetate is photodegradable, meaning ultraviolet light

eventually breaks it into smaller pieces, but it cannot decompose.²⁸ Cellulose acetate can linger in the environment for 10 to 15 years before it finally photodegrades.²⁸

- Cigarette butts discarded in a park have the possibility of polluting the environment either by being littered directly into a local water source, or indirectly by washing into drains that flow into rivers, lakes, or oceans. An estimated 80 percent of littered cigarette butts in the U.S. end up in waterways.²⁹ Cigarette butts are the single most collected item in beach cleanups each year.²⁸ Countless data has been collected on cigarette litter in waterways at the local level. For example, at a single three hour beach clean-up even in Chicago in 2006, volunteers removed approximately 5,600 cigarettes from North Avenue Beach.³⁰ Likewise, in Illinois tobacco products and packaging comprise approximately 41 percent of marine litter.³¹
- While not much economic analysis of tobacco product litter has been conducted at the local level, the limited studies available suggest that tobacco product litter can result in exorbitant clean-up costs for a large community. A 2009 audit by the City of San Francisco found that the city spends \$6,098,969 annually to clean up cigarette litter.³² One Big Ten university estimates its tobacco product litter clean-up costs to be around \$150,000 per year.³³

b. **Heavy Metal Contamination**

- Tobacco product litter has the potential to contaminate the environment, particularly aquatic environments. At least two studies have identified tobacco product litter as a point source for metal contamination.^{28, 34, 35} In certain circumstances, littered cigarette butts have been shown to leach out heavily metals (including, aluminum, barium, cadmium, chromium, copper, iron, lead, manganese, nickel, strontium, titanium, and zinc), as well as polycyclic aromatic hydrocarbons, and other chemicals such as nicotine and ethylphenol. According to one study, the leaching of metals from cigarette butts, “may increase the risk of acute harm to local organisms.”³⁴
- A 2009 study from Japan on the environmental impact of tobacco waste littered on roadsides concluded that load potentials of heavy metals and polyaromatic hydrocarbons from littered cigarette butts, “indicate that [tobacco product] waste has a harmful influence on the environment.”³⁵

IV. **SOCIAL NORMS**

The final major argument supporting smoke-free park policies is that they help establish and reinforce smoke-free environments as a social norm, and further discourages smoking among children and adults (i.e. kids don't grow up seeing smoking behaviors). Beginning in the mid-1970s, youth attitudes towards tobacco became increasingly negative. These negative attitudes toward tobacco have correlated to acknowledgement by policymakers that tobacco products carry a “great risk,” which in turn lead to resulting policy and legal measures.³⁶ Since the social effect of tobacco control measures began to be

studied in the early 1980's, it has been hypothesized that "[s]ocial norms have an interactive relationship with policy change."³⁶ If true, then prohibiting smoking in parks and other outdoor public spaces could serve to de-normalize smoking. When youth see adults smoking in public places, they may associate smoking with acceptable behavior and have an increased risk to copy the behavior themselves. The increased prevalence of smoke-free places will, therefore, arguably result in fewer opportunities for youth to start smoking to begin with. This section briefly outlines what is currently understood about social norms as they relate to smoke-free environments:

- The notion of positive community role modeling of non-smoking behaviors is hardly a new concept. It has been well established that adolescents who live with non-smoking parents or who work in non-smoking places of employment are less likely to become smokers themselves.³⁷ In addition, studies have found that youths living in communities with strong smoke-free restaurant laws are less than half as likely to become established smokers than youth living in municipalities with weak smoke-free restaurant laws.³⁸
- While there are relatively few studies that link normalization of smoking to the proliferation of smoke-free policies, the limited studies suggest that youth observation of smoking in public is associated with the perception that smoking is socially acceptable.³⁹ Therefore, policies that result in reduced visibility of smoking in public will also reduce the perceived acceptability of smoking by youth in those locations.³⁹ The CDC notes that tobacco control policies are effective because they "change the environment" to encourage and support tobacco-free lifestyles.⁴⁰
- Implementing policies that encourage smoke-free living, such as smoke-free outdoor spaces, can also help to support smokers in their efforts to quit. Some studies have concluded that smoking bans in public places motivate smokers to quit at higher rates than in environments where smoking is permitted.³⁶ According to the CDC, smoking cessation has increased as public smoke-free policies have become more prevalent.⁴¹ Among youth smokers, studies suggest that de-normalizing social images of smoking can also help sustain successful quit attempts.⁴²
- While "social norms" support numerous successful public health initiatives, their application to tobacco control has been criticized for the shortage of empirical evidence indicating a causal relationship between trends in social norms towards smoking and shifts in smoking behaviors.³⁶ Nevertheless, as a Robert Wood Johnson Foundation report on social norms and smoking noted, "[i]nstituting even an unpopular policy may decrease a risky health behavior and eventually alter social norms and attitudes."³⁶ A prime example of this theory at work is the success of mandatory seat belt laws.³⁶

V. SUMMARY OF OPPOSITION ARGUMENTS

Arguments against smoke-free parks generally fall into three broad categories: (1) the policies are supported by insufficient health evidence; (2) the policies are anti-smoker, not anti-smoking; and (3) the

policies are a further expansion of the so-called “nanny state.”ⁱⁱ Critics caution that “trust of [public health policymakers] is threatened when the case for interventions depends on weak evidence and involved degrees of dissimulation,” as they claim has been the case with smoke-free parks policies.⁴³

Critics argue that some frequently cited studies on outdoor tobacco smoke are inapplicable to sparse areas like parks. They also state that the studies that are applicable do not necessarily support the broader conclusion that exposure to outdoor tobacco smoke results in long-term negative health consequences. There is concern that policymakers cite unsupported health claims as justification for passing unstated policy objectives centering on social norms. Critics also argue that with so many smoke-free policies, smokers are finding it challenging to find a place where they can legally smoke. Finally, regarding the libertarian “nanny state” argument, critics state that smoke-free parks are yet another example of big government telling legal adults what they can and cannot do to their own body.

Health evidence regarding exposure to outdoor tobacco smoke is not as fully developed as the evidence on the health effects of indoor exposure to secondhand smoke. Nevertheless, many organizations, including the CDC, view even limited exposure to the toxins and carcinogens in secondhand smoke as enough of a threat to merit a policy solution. Over 900 municipalities in the U.S. have also weighed this evidence in favor of regulation. In addition, while social norms may not be a popular *political* argument in favor of smoke-free parks policies, for public health experts, the evidence in favor of establishing smoke-free environments as a social norm is alone enough of a justification for enacting such policies. Lastly, from a public health perspective, pursuing tobacco control policies is not a matter of identifying where adults can smoke, but is a matter of reducing societal negative health outcomes. This is a society of many laws designed to protect innocents that would otherwise be exposed to life threatening activities. For example, DUI laws, while protective of the driver, are designed to protect other vehicles and pedestrians that would be put at risk by an intoxicated motorist. Smoke-free parks policies, while they can support smokers in their quit attempts, are designed to protect the health of non-smokers, primarily children.

VI. BEST PRACTICES

Policymakers considering the adoption of a smoke-free parks policy should weigh carefully all the policy considerations involved with such a policy. As outlined below, policymakers should clearly identify the objectives served by the policy, reinforce the need for the policy with local data, demonstrate that the policy can be adequately enforced, and enact the policy through the proper vehicle. Arguably the

ⁱⁱ See, e.g., Doyle K. (February 18, 2014). Smoke-free park policies slow to catch on: study. Reuters. Retrieved from: <http://www.reuters.com/article/2014/02/18/us-smoke-free-idUSBREA1H23P20140218>; Bayer R, Bachynski KE. (2013). Banning Smoking In Parks And On Beaches: Science, Policy, And The Politics Of Denormalization [Analysis & Commentary]. *Health Affairs*. 32, 7: 1291-1298; Chapman S. (2008). Should smoking in outdoor public spaces be banned? No. *BMJ*. 337:a2804.

biggest key to enforcement and public support is adequate notice and signage. This list of considerations is by no means exhaustive, but represents several of the leading “lessons learned” from communities with smoke-free parks, as well as established tobacco control “best practices.”

a. Enumerating the Official Policy Objectives

At the outset, proponents of smoke-free parks policies should articulate clearly the official objectives of the policy. For example, Philadelphia, identified the following objectives: (1) protecting against secondhand smoke; (2) support a normative message that smoking is harmful; (3) motivating smokers to quit; and (4) mitigating tobacco-related sanitation costs.⁴⁴ As mentioned above, some have criticized smoke-free parks initiatives for using inadequately-backed health claims as a ‘front’ for a primary objective of reinforcing social norms. Openly and accurately enumerating the official objectives of the policy, including establishing smoke-free environments as a social norm, can help mitigate this criticism.

The policy objectives will obviously also depend on local needs. Interestingly, Boston cited changing social acceptance of marijuana as one of the primary motivators for its smoke-free parks policy. With the decriminalization of marijuana and pending legalization of medical marijuana, policymakers had received frequent complaints of marijuana use in Boston Common, even around playgrounds.^{45, 46, 47} Other communities, primarily in the southwest, have cited fire prevention as a primary objective for smoke-free parks policies.⁴⁸

b. Utilizing Local Data

To the greatest extent possible, smoke-free policies should be supported by local data. Local data could include information on local youth and adult smoking rates, cessation success rates, average local blood cotinine levels (metabolized nicotine), local tobacco litter data, parks sanitation costs, park usage data, and data on cigarette-caused wildfires.

The New York City Department of Parks & Recreation, for example, cited the following statistics to demonstrate the need for reducing outdoor exposure to secondhand smoke: “New Yorkers are exposed to secondhand smoke at higher rates than the national average . . . 57% of New Yorkers who do not smoke have elevated levels of cotinine in their blood compared to 45% of non-smokers nationally . . . Non-smokers in New York City have more cotinine in their bodies even though [New York City has] strong indoor smoking laws.”⁴⁹

In addition, numerous region-specific surveys have been conducted showing public support for smoke-free parks policies. For example, a 2012 survey commissioned by Respiratory Health Association revealed that nearly 60 percent of Chicagoans reported being bothered by secondhand smoke in parks and that almost 60 percent of Chicagoans would support a smoke-

free parks policy (only 37 percent opposed such a policy). Likewise, a University of Minnesota survey found that 70 percent of adults in Minnesota support tobacco-free park and recreation areas. Surprisingly, the survey also found that 28 percent of smokers supported tobacco-free parks and recreation areas.⁵⁰ Surveys such as these can help gauge local support for such policies, uncover particular areas of need, and can let policymakers show that they are acting in the interests of their constituents.

c. **Determining the Scope of the Policy**

Among cities that have enacted smoke-free parks policies, the scope of the policies has varied. Many cities enact comprehensive ordinances covering their entire park system. Some cities have, conversely, chosen to identify specific smoke-free zones. Areas covered in such policies have included parks, park buildings, beaches, playgrounds, plazas, pools, sports venues and playing fields, trailheads, and other parks-operated facilities. Other cities, such as Seattle, prohibit smoking within a certain distance (25 feet) of other park patrons.⁵¹

Another key consideration is whether or not to carve out exemptions to the policy, such as an exemption for private use of the park. Many cities, including New York, have made no exemptions for such events. Los Angeles, meanwhile, created two exemptions to its smoke-free parks policy. The first is for actors during a permitted production or by models during a photo shoot; the second is for contract-operated facilities, in designated areas, at the discretion of the director, in consultation with the operators of the facilities.⁵² Arguments against exemptions include smoke-free policy uniformity, park district brand consistency, and ease of enforcement.

Policies also vary in defining what qualifies as “smoking.” As mentioned above, Boston’s ordinance covers marijuana smoking, but it *uniquely* also covers electronic cigarette use.⁵³ Arguments for inclusion of electronic cigarettes in a smoke-free parks policy would, for the time being, have to rest solely on social norms and ease of enforcement, but as electronic cigarette use continues to rise, policymakers should consider including the devices in their policies’ definition of “smoking.”ⁱⁱⁱ Regardless of what activities are included in the policy, public health officials should be sure to work with city law departments to ensure that the most accurate definitions are included in any proposed ordinance.

ⁱⁱⁱ For a discussion of the health and policy concerns surround e-cigarettes, see, Fraley T, et al. (2013). E-Cigarettes and Youth: An examination of the public health and policy concerns over increased rates of youth use and exposure to e-cigarettes. *Respiratory Health Association Tobacco White Paper Series*. Available at: <http://www.lungchicago.org/library-white-paper-series/>.

d. Defining the Enforcement Mechanisms

Most cities with smoke-free parks policies in place have reported very few enforcement issues. New York City's Park Department website states that its ordinance is largely self-enforced,⁴⁹ though park rangers did issue 212 violations in the first year of the ordinance.⁵⁴ A 2008 survey of municipal officials in California communities with smoke-free parks indicated that 80 percent of communities did not have any problems with compliance.⁵⁵ 70 percent of surveyed officials also indicated that their respective community's smoke-free park policy was well received by the public.⁵⁵

Nevertheless, as the scope of the policy is framed, it is important for policymakers to consider the policy's enforcement mechanism. Limited research shows such policies to be largely self-enforcing, however, an official enforcement mechanism, even if just a contingency, will still need to be in place. Options from other cities include local police, park rangers/staff, park volunteers, or some combination of the above.

Another important consideration is whether the policy will be enforced with fines and if so, the size of the fines. In Boston, the fines are \$250 per offense and the ordinance is enforced by the Boston Police Department.⁵³ In Atlanta and Austin, fines can range up to \$1,000 and \$2000, respectively, and can be classified as misdemeanors.^{48, 56} San Francisco assesses fines ranging from \$100 to \$500 depending on whether it is an initial or repeat offense. In New York City, the fines are \$50 and are enforced by NYC Park Rangers.⁴⁹ As an alternative to monetary fines, Seattle opts to ban violators from park premises for 24 hours.⁵¹

e. Evaluating the Legislative Vehicles for the Policy

Municipalities may have a choice of vehicles for enacting a smoke-free parks policy. It is important that policymakers understand the different options because, depending upon the rules of the municipality in question, not all options may be available. First, and most common, would be through the creation of legislation to be enacted by a full city council vote. This is the route that New York City, Boston, Atlanta, and Austin (among many others) took in adopting their respective smoke-free parks policies. The second route would be via promulgation of an agency rule or regulation. For example, when Chicago passed its smoke-free beaches policy in 2007, the policy simply had to be adopted by the Chicago Park District Board of Commissioners after a public comment period.⁵⁷ Finally, it may be possible to enact a smoke-free parks policy by way of an executive order signed by the mayor. This is the route that was taken to adopt the smoke-free parks policy in Philadelphia.⁴⁴

Each of the routes has its own benefits and drawbacks, among which are the varying degrees of speed, political accountability, agency involvement, ability to repeal, and publicity.^{lv} These factors deserve full analysis and consideration before proceeding with any policy initiative. It is worth emphasizing now, however, that an agency's ability to promulgate rules is dependent on the authority granted to it by that agency's controlling statute. In October, 2013, a smoke-free state parks policy in New York supported by Governor Cuomo was permanently blocked in court because the New York (State) Office of Parks, Recreation & Historic Preservation exceeded its rulemaking authority.⁵⁸

f. Coordinating Signage and Public Notices

Clear, comprehensive signage will help reinforce the ordinance and ensure high rates of compliance. A survey of municipal officials in California cities with smoke-free parks indicated that signage was the key aspect to the success of their respective enforcement efforts.⁵⁵ With strategic signage, California cities were able to create "gentle reminders" of their smoke-free policies that members of the public could point to if they saw someone smoking. Signage should incorporate clear non-smoking logos, the ordinance number, the penalty (if applicable), and the phone number of the enforcing agency.

In addition, for a smoke-free parks policy to be truly self-enforcing, ample public notice needs to be published both on and in-advance of the effective date. Notice could be through signage, informational handouts, newsletters and other print media. In New York City and Philadelphia, temporary posters were posted at the entrances to city parks and palm cards explaining the policy were distributed to violators in lieu of citations and fines.⁴⁴

g. Publicizing Policy Successes

Sharing your community's story can provide great support and important lessons for other communities considering policies for smoke-free outdoor spaces. Public health officials should consider recapping their policy process with a case study or white paper on best practices. Capture the stories of those affected by the policy change and the data demonstrating the benefit to the local government and to the community members. Such projects could include personal accounts parks users and staff of the health changes that resulted from the policy, documentation of enforcement efforts, and post-enactment audits of tobacco litter and sanitation costs.

^{lv} These factors were all given consideration in Philadelphia before opting for the executive order route. For an excellent discussion the benefits and drawbacks to these policy routes, including a risk-analysis table, see Leung R, et al. (2013). Instituting a Smoke-Free Policy for City Recreation Centers and Playgrounds, Philadelphia, Pennsylvania, 2010. *Preventing Chronic Disease* 10:120294. Available at: http://www.cdc.gov/pcd/issues/2013/12_0294.htm.

Some cities have documented the positive results from their smoke-free parks policies. In New York City, the Parks and Recreation Department estimates based on observational studies that the ordinance reduced smoking in parks by two-thirds and reduced cigarette litter on beaches and playgrounds also by two-thirds.⁵⁹ Likewise, in Minnesota, a survey of local park directors in communities with smoke-free parks reported that 88 percent of communities did not see a change in park usage, 71 percent saw less smoking in parks, and 58 percent reported having cleaner parks.⁵⁰ The continuing availability of these studies will help demonstrate to policymakers that these policies can effectuate positive social change.

VII. CONCLUSION

The smoke-free parks movement is gaining momentum as communities work to solve smoking-relating health disparities. Parks are designed to provide clean, safe, and pleasant environments in which citizens – especially children – can relax or be at play. Smoke-free parks policies ensure that youth are breathing clean air and not being exposed to negative health behaviors while enjoying city green space. While less is known about the long term health effects of exposure to outdoor tobacco smoke than is known about prolonged exposure to secondhand smoke indoors, justifications for smoke-free parks policies still abound. More than 900 communities in the U.S., including many major cities, have already weighed the evidence and moved in favor of enacting smoke-free park policies. Based on the municipalities that have already enacted smoke-free parks policies, there are a few notable policy considerations that public health officials and policymakers should be mindful of, including accurately stating policy objectives, not overstating the evidence, creating strong definitions and enforcement mechanisms, providing abundant public notice, and publicizing successful policies.

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Research Article

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Depression Predicts Smoking among Adolescent Girls but Not among Boys

Sari Fröjd*, Päivi Ala-Soini, Mauri Marttunen and Riittakerttu Kaltiala-Heino

School of Health Sciences, University of Tampere, Finland

Abstract

This study investigates the comorbidity and longitudinal associations between smoking and self-reported depression in a community-based sample of Finnish adolescents in a 2-year prospective follow-up study. The adolescents took part in a school based survey, the Adolescent Mental Health Cohort Study, first in 9th grade (mean age 15.5) and a follow-up survey was conducted two years later. The subjects of this study are 2070 adolescents who took part in both surveys. Depression was measured by R-BDI, the Finnish version of Beck's short 13-part depression inventory. Smoking was measured by asking the respondents about their current smoking habits and how many cigarettes they had smoked. A concurrent association between depression and smoking was detected among both sexes both at age 15 and at age 17. Depression at age 15 emerged as a risk factor for smoking at age 17 among girls but not among boys. Smoking at age 15 did not predict subsequent depression among either sex. Not living with both parents at age 15 predicted subsequent depression among girls, and subsequent smoking among boys.

Keywords: Depression; Smoking; Adolescence; Follow-up study

Introduction

Smoking and depressive symptoms have both been demonstrated to be associated with somatic and psychiatric outcomes [1]. Having both risk factors may be hypothesized to increase prevalence of negative outcomes. Understanding associations of depression and smoking may inform interventions to early intervene to smoking of a depressed adolescent or detecting symptoms of mood disorders in a smoking adolescent.

The prevalence of mental disorders is doubled in late adolescence compared to childhood [2]. Of the adolescents in Munich, for example, 17% have at some point in their life met the diagnostic criteria for a depressive disorder at the age of 24 years [3]. The point prevalence of depressive symptoms is even higher, with proportions of adolescents with elevated depressive symptoms or self-reported depression reported to be as high as 30% [4,5]. In adolescence also the typical gender difference occurs: depression is two times more common in females than in males [3,6].

Nicotine causes neurotransmitters like acetylcholine and dopamine concentrations to increase, which causes satisfaction, better concentration and increase in tolerating stress [7]. Smoking is most commonly started at young age, when neurobiological acute and chronic effects of smoking on developing central nervous system are substantial. In Finnish adolescents, as in adolescents in other western countries, smoking is common: of 14-year-old adolescents 15% are daily smokers, and at the age of 16 almost one third smoke daily. Boys smoke more often than girls, but girls' smoking is strongly increasing [8].

Smoking is more common in depressed adults and adolescents than in individuals in the general population [9-11]. Several longitudinal researches among adolescents have suggested that smoking predicts depressive symptoms while others have suggested that depression predicts smoking [12-19]. The association between smoking and depression in adolescence may also be bidirectional [20,21].

There may also be some gender differences in the temporal associations of smoking and depression in adolescence but these

are studied scarcely [20]. In some reports smoking seems to predict depression especially among females and depression seems to predict smoking especially among males, but opposite results have also been reported [16,19]. There are discordant results about genetic components predicting both smoking and depression; some researches state that genetic factors are important especially among men; some state the same among women [20].

There are four main hypotheses explaining the connection between smoking and mental illnesses. Self-medication of psychiatric symptoms by smoking or difficulties in abstaining from smoking due to low self-efficacy among depressed adolescents would explain why depression may predict smoking. The effects of nicotine on neurotransmitter systems [7,16,21-23] may explain the pathway from smoking to depression. Depression has been suggested to be correlated with both the presence of nicotine dependence and the number of cigarettes consumed [22]. And, finally the genetic and environmental factors that predispose to both smoking and depression may be behind the bidirectional associations [24].

The discordant results of the studies may result from the fact that the studies have concentrated on different issues; for example diagnosed depression vs. depressive symptoms, and smoking habits vs. nicotine dependence. Also study designs and the sizes of study populations have varied a lot between different researches. There is no final consensus about the associations of depression and smoking, so further research is needed to find out which of the hypotheses is the most considerable.

*Corresponding author: Sari Fröjd, School of Health Sciences, University of Tampere 33014, Finland, Tel: 358405110113, E-mail: sari.fröjd@uta.fi

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The incidence of both depression and smoking grows dramatically in adolescence compared to childhood [20]. Thus, it is most likely to find causal relations in researches focusing on adolescents. With the two year follow-up, it is possible to examine longitudinal associations of depression and smoking in the present study. The unselected study population comprised all ninth grade pupils (15-16 year-olds at baseline) from two Finnish cities.

The aim of the present study was to evaluate comorbidity and longitudinal associations between smoking and self-reported depression in Finnish adolescent population. The research questions were:

- 1) Is there comorbidity between smoking and depression at ages 15 and 17?
- 2) What is the temporal sequence of smoking and depression in middle adolescence?

The link between smoking and depression has been well established in previous literature. We strongly expected that depressed adolescents in our sample, both boys and girls, will more often be smokers than adolescents free from depression (that is: will show concurrent comorbidity). Adolescence is the period of time when peer pressure to smoke will be at its highest. Thus the effect of poor self-efficacy on difficulties to abstain from smoking will be high. Also the mental health literacy of adolescents may be lower than that of adults. An adolescent with depressive symptoms may not seek treatment and will thus be especially susceptible to self-medicating with substances such as tobacco. Hence we hypothesized that depression at the age of 15 will predict smoking at the age 17. The suggested pathway from smoking to depression goes through the biological effects of nicotine and other psychoactive chemicals in tobacco smoke. Thus, we expected to find no sex differences in this pathway.

Materials and Methods

Study samples and procedures

The present study is part of a prospective cohort study entitled *Mental Health in Adolescence*. The sample utilised in the study consist of surveys in two waves conducted during the academic years 2002-2003 and 2004-2005 in two Finnish cities, Tampere (population 200,000) and Vantaa (population 180,000). The study has received the approval of the ethics committee of Pirkanmaa Hospital District. The methods of the study are now described briefly; a detailed description can be found elsewhere [25].

The data wave was collected in all Finnish-speaking secondary schools in the two cities when the respondents were at 9th grade. The pupils filled in a person-identifiable questionnaire during a school lesson under teacher's supervision. Pupils absent from school on the original survey day had another opportunity to participate at school within a couple of weeks. Pupils who missed both of these occasions received the questionnaire twice by mail. A covering letter was sent to the parents of the pupils in advance, but the Finnish legislation on medical research does not require parental consent for a 15-year-year-old subject's participation.

A total of 3,597 pupils responded; the response rate was 94.4%. Six responses had to be excluded because of obvious facetiousness and 313 because they were completed by a student under 15 years old. The final sample included 3,278 respondents (mean age 15.5, SD 0.39) of whom 49.1% (n=1,609) were girls and 50.9% (n=1,669) boys.

Of the respondents 71.8% (n=1,487) were living with both parents and 20.6% (n=427) had at least one parent with low educational level (comprehensive school only).

The subjects who responded to the first survey were contacted two years later through their current educational institutes. Subjects not reached through school were contacted three times by mail and finally those who had not yet responded were offered an opportunity to respond through the Internet.

Altogether 2,070 adolescents, of whom 56.4% (n=1167) were girls and 43.6% (n=903) boys, responded to the survey both times. The response rate of the second survey was 63.1% and the mean age of the respondents at the time of the second survey was 17.6 (SD 0.41). Adolescents having completed the questionnaire at both times are the subjects of this study.

Measures

Depression

The Finnish modification of the 13-item Beck Depression Inventory was used to assess depression. R-BDI comprises 13 statements showing increasing intensity of depressive emotions and cognitions. Each item is scored 0-3 according to the severity of the symptom. Sum scores of the 13 items (range 0-39 scores) were dichotomized according to the cut-off point of 8 suggested in the literature into moderate to severe depression/mild depression or no depression [26-28].

Smoking

At the first questionnaire, the respondents were asked about their smoking habits with two different questions, first: "How many cigarettes have you smoked?", with response alternatives: 0 cigarettes, 1 cigarette, 2-50, or over 50. Those who had smoked, were also asked "Which of the following alternatives best describes your current smoking?": once a day or more often, once a week or more often but not daily, less than once a week, or quitted. At the follow-up, respondents were only asked about their current smoking, with the response alternatives: once a day or more often (smokes daily), once a week or more often but not daily (smokes less than daily), less than once a week (smokes less than weekly), or quitted/never smoked (has never smoked or has quitted smoking). Responses to smoking questions at age 15 were combined into one smoking variable according to the response alternatives at age 17. In the final analyses, smoking was dichotomised to current non-smokers (quitted/never smoked) and current smokers.

Sosiodemographic background

Data were collected on family structure and parental education level. The respondents were asked: "Which of these belong to your family?" with response alternatives: mother and father, mother and stepfather, father and stepmother, only mother, only father, or some other guardian. On parental education level the question was: "What is the highest educational level obtained by your father (mother)?" and the response alternatives were: comprehensive school only, comprehensive school with vocational education, upper secondary school with/without vocational education, and academic degree. In the analyses, family structure was dichotomised to living with both parents vs. any other, and maternal and paternal education were dichotomised to low (comprehensive school only) vs. intermediate/high education.

Statistical analyses

The comorbidity of depression and smoking was analyzed at both

age 15 and age 17. The proportions of those reporting depression by smoking were calculated and the significance of differences in proportions were analyzed by chi-square test. The proportions of those reporting smoking by depression were calculated and the significance of differences in proportions were analyzed by chi-square test.

The longitudinal associations between depression and smoking were analyzed by calculating the proportion of depression at age 17 according to smoking at age 15, and the significance of differences between groups was analyzed by chi-square test. To study multivariate associations, binary logistic regression was used. Firstly, odds ratio (OR) with 95% confidence interval (CI) for depression at age 17 (dependent variable) according to smoking at age 15 (independent variable) was calculated. Depression at age 15 and socio-demographic variables (family structure and maternal and paternal education level) were controlled for.

To test whether depression at age 15 predicts smoking at age 17, the proportion of smoking at age 17 was calculated according to depression at age 15. The significance of differences between groups was analyzed by chi-square test. OR (with 95% CI) for smoking at age 17 (dependent variable) by depression at age 15 (independent variable) was calculated using logistic regression analysis. Smoking at age 15 and socio-demographic variables (family structure and parental educational levels) were controlled for.

All the analyses were done separately for boys and girls. Statistical analyses were performed with the SPSS 15.0 software package.

Drop out

Adolescents who dropped out of the second survey were more likely to be boys (63% vs. 44%, $p=0.001$). They did not live as often with both parents as those who took part in the second survey (28% vs. 35%, $p=0.001$). They were also more likely to come from families where the parental educational level was low (mother, comprehensive school only; 13% vs. 18%; father, comprehensive school only; 17% vs. 22%, $p=0.001$).

The drop-outs had more often depression at 9th grade (12% vs. 9%, $p=0.02$). The drop-outs also smoked more at 9th grade (37% vs. 27% had smoked over 50 cigarettes, $p<0.001$).

Results

Prevalence

The prevalence of depression among girls at age 15 was 12% ($n=133$) and at age 17 it was 10% ($n=119$). The prevalence of depression among boys was 6% both at age 15 ($n=53$) and at age 17 ($n=57$).

At the age of 15, 67% ($n=768$) of girls were current non-smokers, 8% ($n=97$) smoked less than weekly, 4% ($n=51$) smoked less than daily, and 20% ($n=235$) smoked daily. At the age of 15, 71% ($n=633$) of boys were current non-smokers, 5% ($n=46$) smoked less than weekly, 3% ($n=31$) smoked less than daily, and 20% ($n=887$) smoked daily.

At the age of 17, 61% ($n=712$) of girls were current non-smokers, 9% ($n=104$) smoked less than weekly, 4% ($n=48$) smoked less than daily, and 26% ($n=296$) smoked daily. At the age of 17, 63% ($n=558$) of boys were current non-smokers, 9% ($n=76$) smoked less than weekly, 3% ($n=28$) smoked less than daily, and 26% ($n=229$) smoked daily.

Comorbidity

Smoking and depression were statistically significantly associated

among girls both at age 15 and 17. Among boys they were statistically significantly associated only at age 15. At age 15 depression was over two times more common among daily smokers compared to current non-smokers among both girls and boys. At age 17 depression was over two times more common in daily smokers compared to current non-smokers among girls. There was no association between depression and smoking among boys at age 17 (Table 1).

Longitudinal associations between depression and smoking

Depression at age 17 was not predicted by smoking at age 15 among girls or boys (Table 1).

Girls who had depression at age 15, were daily smokers two times more often at age 17 than girls without depression at age 15 (23% vs. 46%, $p<0.001$). Girls without depression at age 15 were more likely to smoke less than once a week at age 17 compared to depressed girls (7% vs. 9%, $p<0.001$). Girls depressed at age 15 were more likely to smoke less than daily at age 17 (5% vs. 4%, $p<0.001$). Girls who weren't depressed at age 15, were non-smokers at age 17 more often than girls who were depressed at age 15 (42% vs. 64%, $p<0.001$). Among boys, the differences were not statistically significant.

The association between depression at age 15 and smoking at age 17 among girls persisted in logistic regression analysis controlling for smoking at age 15, parental education, family structure and age. Smoking at age 17 was also predicted by smoking at age 15. Among boys, depression at age 15 had no association with smoking at age 17. Smoking at age 17 was predicted by smoking and by not living with both parents at age 17 (Table 2).

Smoking at age 15 did not predict subsequent depression among either girls or boys. Depression at age 17 was among both sexes predicted by previous depression and among girls by not living with both parents at age 15 (Table 3).

Discussion

Earlier studies have found out that there is comorbidity between smoking and depression, but the reason for the association is partially unsolved, as there are many hypotheses but no final conclusion about it. The present study suggests no pathway from smoking to depression and a pathway from depression to smoking among girls only.

The findings of the present study support the findings of many earlier studies about depression predicting later smoking [16-20,29]. This temporal sequence can be explained by the self-medication hypotheses, but also by the increased harmful health behaviour of the depressed adolescents. Some large studies have found depressed adolescents to be more likely than their peers to engage in multiple health-risk behaviours, like smoking. The association is thought to be mediated by reported levels of hopelessness, anhedonia and suicidality [30,31].

There are few studies addressing gender differences in the association between smoking and depression. Depressive mood was suggested to predict smoking initiation in early adolescent girls but not in boys in Netherland [16]. Adolescent girls may be more prone to self-medicate their depression with smoking. Depressive mood may also make females more vulnerable to peer pressure concerning smoking.

In our study smoking at age 15 does not predict depression at age 17. Thus, our study did not support the hypothesis of smoking predicting later depression. Perhaps the depressogenic effect of smoking on

| | | Smoking at age 15 | | | | |
|----------------------|--------------------|-------------------|-------------------|--------------------|--|--------|
| Depression at age 15 | no | less than weekly | less than daily | daily | | p |
| Girls | | | | | | |
| yes | 8.3% (64/768) | 11.3% (11/97) | 11.8% (6/51) | 22.1% (52/235) | | <0.001 |
| no | 91.7% (704/768) | 88.7% (86/97) | 88.2% (45/51) | 77.9% (183/235) | | |
| Boys | | | | | | |
| yes | 4.9% (31/633) | 4.3% (2/46) | 0.0% (0/31) | 11.3% (20/177) | | 0.006 |
| no | 95.1% (602/633) | 95.7% (44/46) | 100.0% (31/31) | 88.7% (157/177) | | |
| | | Smoking at age 15 | | | | |
| Depression at age 17 | no | less than weekly | less than daily | daily | | p |
| Girls | | | | | | |
| yes | 9.1% (70/769) | 11.3% (11/97) | 11.8% (6/51) | 13.0% (31/238) | | 0.340 |
| no | 90.9% (699/769) | 88.7% (86/97) | 88.2% (45/51) | 87.0% (207/238) | | |
| Boys | | | | | | |
| yes | 6.5% (41/632) | 2.1% (1/47) | 9.7% (3/31) | 6.3% (11/174) | | 0.570 |
| no | 93.5% (591/632) | 97.9% (46/47) | 90.3% (28/31) | 93.7% (163/174) | | |
| | | Smoking at age 17 | | | | |
| Depression at age 17 | no | less than weekly | less than daily | daily | | p |
| Girls | | | | | | |
| yes | 8.1% (58/712) | 4.8% (5/104) | 10.4% (5/48) | 17.2% (51/296) | | <0.001 |
| no | 91.9% (654/712) | 95.2% (99/104) | 89.6% (43/48) | 82.8% (245/296) | | |
| Boys | | | | | | |
| yes | 5.6% (31/558) | 10.5% (8/76) | 7.1% (2/28) | 7.0% (16/229) | | 0.394 |
| no | 94.4% (527/558) | 89.5% (68/76) | 92.9% (26/28) | 93.0% (213/229) | | |

Table 1: Prevalence (%; n/N) of depression according to smoking among girls and boys at age 15 and at age 17, and prevalence of smoking according to depression among girls and boys at age 15 and at age 17.

| | Risk for Smoking at age 17 Girls | | Risk for Smoking at age 17 Boys | |
|-----------------------------------|----------------------------------|--------|---------------------------------|--------|
| | OR (95% CI) | p | OR (95% CI) | p |
| Depression at age 15 | | 0.009 | | 0.677 |
| yes | 1.82 (1.16-2.86) | | 1.16 (0.57-2.36) | |
| no (ref.) | | | | |
| Smoking at age 15 | | <0.001 | | <0.001 |
| yes | 12.05 (8.92-16.28) | | 15.27 (10.52-22.18) | |
| no (ref.) | | | | |
| Maternal educational level | | 0.425 | | 0.368 |
| yes | 1.21 (0.76-1.95) | | 1.29 (0.74-2.23) | |
| no (ref.) | | | | |
| Paternal educational level | | 0.768 | | 0.920 |
| yes | 0.94 (0.62-1.43) | | 1.03 (0.60-1.77) | |
| no (ref.) | | | | |
| Living with both parents | | 0.417 | | 0.040 |
| yes (ref.) | | | | |
| no | 1.14 (0.83-1.58) | | 1.49 (1.02-2.18) | |
| Age | | 0.498 | | 0.789 |
| 15 yrs (ref.) | | | | |
| over 15 yrs | 0.78 (0.83-1.58) | | 1.49 (1.02-2.18) | |

Table 2: Risk for [odds ratio (OR), 95% confidence interval (CI)] smoking at age 17 according to depression at age 15, smoking at age 15 and sociodemographic factors.

neurotransmitters needs a longer follow-up time to emerge. In some earlier studies the follow-up time has been five to six years [12,14].

We also found out that not living with both parents is predictive of depression among girls. This has been noted in earlier studies, too. Among boys, not living with both parents emerged as independent

| | Risk for Depression at age 17 Girls | | Risk for Depression at age 17 Boys | |
|-----------------------------------|-------------------------------------|--------|------------------------------------|--------|
| | OR (95% CI) | p | OR (95% CI) | p |
| Smoking at age 15 | | 0.641 | | 0.396 |
| yes | 0.90 (0.57-1.42) | | | |
| no (ref.) | | | | |
| Depression at age 15 | | <0.001 | | <0.001 |
| yes | 13.60 (8.62-21.44) | | 8.39 (4.16-16.94) | |
| no (ref.) | | | | |
| Maternal educational level | | 0.270 | | 0.414 |
| yes | 1.43 (0.76-2.70) | | 0.66 (0.25-1.78) | |
| no (ref.) | | | | |
| Paternal educational level | | 0.615 | | 0.358 |
| yes | 1.16 (0.65-2.10) | | 1.48 (0.64-3.38) | |
| no (ref.) | | | | |
| Living with both parents | | 0.011 | | 0.569 |
| yes (ref.) | | | | |
| no | 1.80 (1.15-2.82) | | 1.21 (0.63-2.30) | |
| Age | | 0.637 | | 0.361 |
| 15 yrs (ref.) | | | | |
| over 15 yrs | 0.81 (0.33-1.96) | | 2.00 (0.45-8.90) | |

Table 3: Risk for {odds ratio (OR), 95% confidence interval (CI)} depression at age 17 according to smoking at age 15, depression at age 15, and sociodemographic factors.

predictor of later smoking. Also this has been noted in earlier studies [32].

In our study the adolescents who smoked daily were concurrently more than two times more likely to display with depression compared to the non-smokers. However, we were not able to demonstrate a linear dose-effect type association between smoking and depression. This is probably due to small numbers in some smoking categories.

One of the main strengths of this study was a large community-based cohort of adolescents with a reasonable response rate in the two-year follow-up. The samples of this study, however, present only 63% of the adolescents taking part in the first survey. This may impair the generalize ability of the study, as drop-outs smoked more often and had slightly more depression at age 15. The results might have been even clearer if the drop-outs had continued at the study. The community-based cohort also made it possible to study adolescents with subclinical depression.

It also would have been possible to exclude those who have quit smoking, because they might confuse the results of those who have never smoked. However, the group of quitters was rather large (n=341 at age 15, n=261 at age 17), and we did not want to exclude that many people from the analyses. We tried the effect of excluding quitters to the comorbidity of smoking and depression, and found out that depression was one percent less common in those who have never smoked, compared to never-smokers and quitters together (6% vs. 7% at age 15 and 6% vs. 7% at age 17). Unfortunately we could not ascertain the maternal smoking status of the respondents. It has been suggested that the smoking status of adolescents at the age of 17 may be independently predicted by maternal smoking status at pregnancy [33].

Conclusion

Depression and smoking are concurrently associated at ages 15 and 17. Among girls, earlier depression predicts subsequent smoking in middle adolescence. Adolescents presenting with depression are in need of preventive measures of smoking. On the other hand, with adolescents who smoke, in addition to health education, screening for depression is advised. Particular effort may be needed to help

adolescents with depression to quit smoking, as depression may impair both motivation and persistence in attempting to quit smoking.

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Smoking and mental illness: results from population surveys in Australia and the United States.

[Lawrence D¹](#), [Mitrou F](#), [Zubrick SR](#).

Author information

Abstract

BACKGROUND: Smoking has been associated with a range of mental disorders including schizophrenia, anxiety disorders and depression. People with mental illness have high rates of morbidity and mortality from smoking related illnesses such as cardiovascular disease, respiratory diseases and cancer. As many people who meet diagnostic criteria for mental disorders do not seek treatment for these conditions, we sought to investigate the relationship between mental illness and smoking in recent population-wide surveys.

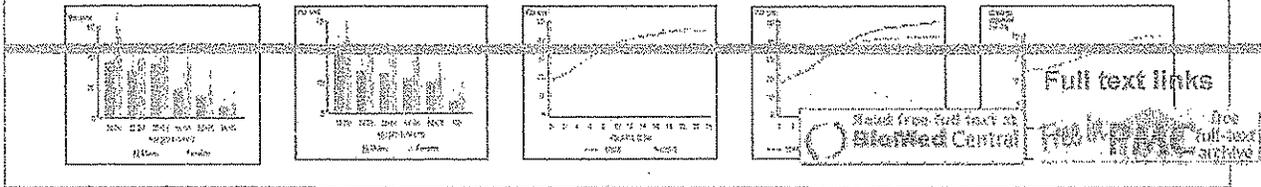
METHODS: Survey data from the US National Comorbidity Survey-Replication conducted in 2001-2003, the 2007 Australian Survey of Mental Health and Wellbeing, and the 2007 US National Health Interview Survey were used to investigate the relationship between current smoking, ICD-10 mental disorders and non-specific psychological distress. Population weighted estimates of smoking rates by disorder, and mental disorder rates by smoking status were calculated.

RESULTS: In both the US and Australia, adults who met ICD-10 criteria for mental disorders in the 12 months prior to the survey smoked at almost twice the rate of adults without mental disorders. While approximately 20% of the adult population had 12-month mental disorders, among adult smokers approximately one-third had a 12-month mental disorder--31.7% in the US (95% CI: 29.5%-33.8%) and 32.4% in Australia (95% CI: 29.5%-35.3%). Female smokers had higher rates of mental disorders than male smokers, and younger smokers had considerably higher rates than older smokers. The majority of mentally ill smokers were not in contact with mental health services, but their rate of smoking was not different from that of mentally ill smokers who had accessed services for their mental health problem. Smokers with high levels of psychological distress smoked a higher average number of cigarettes per day.

CONCLUSION: Mental illness is associated with both higher rates of smoking and higher levels of smoking among smokers. Further, a significant proportion of smokers have mental illness. Strategies that address smoking in mental illness, and mental illness among smokers would seem to be important directions for tobacco control. As the majority of smokers with mental illness are not in contact with mental health services for their condition, strategies to address mental illness should be included as part of population health-based mental health and tobacco control efforts.

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The use of mental health services by adolescent smokers: a nationwide Israeli study.

[Shoval G¹](#), [Mansbach-Kleinfeld I](#), [Farbstein I](#), [Kanaaneh R](#), [Lubin G](#), [Krivoy A](#), [Apter A](#), [Weizman A](#), [Zalsman G](#).

Author information

Abstract

In this study, we aimed to evaluate the utilization of mental health services by adolescent smokers, the presence of untreated mental disorders in this young population and the associated emotional and behavioral difficulties. We performed a nationwide survey study of an Israeli representative sample of 906 adolescents and their mothers. Mental disorders were assessed using the Development and Well-Being Assessment (DAWBA) Inventory. Emotional and behavioral difficulties were evaluated using the Strengths and Difficulties Questionnaire (SDQ). Mental health services use and smoking habits were evaluated by relevant questionnaires. Adolescent smokers were using significantly more mental health services than non-smokers (79% vs. 63%, respectively, $P < 0.001$), independently of their mental health status or ethnic group. Adolescent smokers also reported more emotional and behavioral difficulties in most areas ($P < 0.001$), which are consistent with their mothers' reports, except in the area of peer relationships. The treatment gap for the smoking adolescents was 53% compared to 69% in the non-smokers ($P < 0.001$). This is the first study characterizing the use of mental health services and the related emotional and behavioral difficulties in a nationally-representative sample of adolescents. The findings of a wide treatment gap and the rates of the associated emotional and behavioral difficulties are highly relevant to the psychiatric assessment and national treatment plans of adolescent smokers.

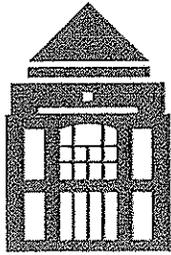
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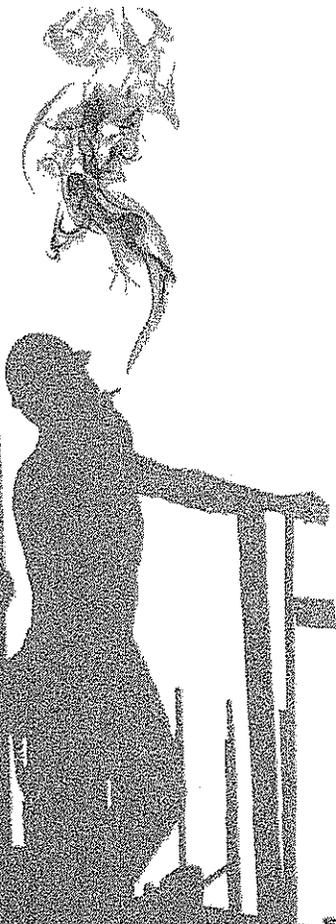
WILLIAM MITCHELL LAW REVIEW

Item #7

Going Too Far? Exploring the Limits of Smoking Regulation

October 23, 2007

William Mitchell College of Law
Saint Paul, Minnesota



Tobacco Control
Legal Consortium

EXPLORING THE LIMITS OF SMOKING REGULATION

D. Douglas Blanke[†] & Kerry Cork^{††}

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“Neither are we troubled by the question where to draw the line. That is the question in pretty much everything worth arguing in the law”¹ -Oliver Wendell Holmes

Justice Oliver Wendell Holmes was never one to agonize over legal line-drawing. For the rest of us, however, the demarcation between necessary regulation and government overreaching can sometimes be difficult to trace. Almost by definition, measures that test the limits of government’s role tend to be controversial. Certainly this is true when it comes to the regulation of smoking. Of course, public health law is no stranger to controversy; tobacco control, in particular, is steeped in it. Tobacco control measures that undoubtedly advance the aggregate health of the community often stand in tension with individual claims to liberty, autonomy, and other constitutionally protected interests. Even where legal tensions are absent, and where legislative intervention is solidly supported by medical evidence, measures perceived as “going too far” may hold the potential to trigger public backlash against all regulation. Whether some recent proposals for smoke-free regulation have crossed this line was the subject of a thought-provoking symposium convened by the Tobacco Control Legal Consortium at William Mitchell College of Law on October 23, 2007. The five papers that follow reflect the diversity of opinions exchanged during the course of lively debate and discussion.

† J.D., Director, Tobacco Law Center and Adjunct Professor of Law, William Mitchell College of Law; Executive Director, Tobacco Control Legal Consortium.

†† J.D., Associate Counsel, Tobacco Control Legal Consortium.

1. *Irwin v. Gavit*, 268 U.S. 161, 168 (1925).

I. SYMPOSIUM BACKGROUND

Over the last ten years, as medical evidence of the dangers of secondhand smoke has mounted,² smoke-free laws have proliferated across the United States and around the world.³ Today, more than 60% of the U.S. population is protected by laws eliminating smoking in indoor workplaces, including restaurants, and almost 50% of Americans live in communities where even bars are smoke-free.⁴ Many Americans are surprised to learn that these laws reflect an accelerating global trend: more than a dozen countries, including France, Ireland, Italy, Norway, Sweden, Thailand, Turkey, the United Kingdom, and Uruguay, have already adopted strong smoke-free laws, as have most Canadian provinces, most Australian states, and cities from Mexico City to Hong Kong.⁵

In the United States and elsewhere, a growing number of jurisdictions are beginning to expand the scope of regulation and to consider enforcing smoke-free policies in areas previously regarded as off-limits: outdoor dining areas of restaurants and bars; public parks, beaches and golf courses; multi-unit residential housing; and motor vehicles.⁶ In employment settings, some companies have imposed higher health insurance premiums on

2. The U.S. Environmental Protection Agency, the National Toxicology Program, the International Agency for Research on Cancer, and the U.S. Surgeon General have all designated secondhand smoke as a known human carcinogen, or cancer causing agent. *See, e.g.*, U.S. DEP'T OF HEALTH & HUMAN SERVS., THE HEALTH CONSEQUENCES OF INVOLUNTARY EXPOSURE TO TOBACCO SMOKE: A REPORT OF THE SURGEON GENERAL 6, 29-33, 576 (2006), available at <http://www.surgeon-general.gov/library/secondhandsmoke/report/>.

3. *See* Americans for Nonsmokers Rights Foundation, Summary of 100% Smokefree State Laws and Population Protected by 100% U.S. Smokefree Laws 1, 1-2 (Apr. 1, 2008), available at <http://www.no-smoke.org/pdf/SummaryUSPopList.pdf>.

4. *Id.* at 1 (stating that 49% of Americans live in communities that prohibit smoking in bars).

5. *See* Campaign for Tobacco Free Kids, Int'l Resource Ctr., *Smoke-Free Laws*, http://tobaccofreecenter.org/smoke_free_laws (last visited Apr. 21, 2008); GlobalSmokefreePartnership, *Smokefree Progress: An Overview of Smokefree Laws Around the World*, http://tobaccofreecenter.org/files/pdfs/SF_world_overview.pdf (last visited Apr. 21, 2008).

6. *See* Americans for Nonsmokers Rights Foundation, Summary of 100% Smokefree Beaches (Apr. 1, 2008), available at <http://www.no-smoke.org/pdf/SmokefreeBeaches.pdf>; Americans for Nonsmokers Rights Found., Summary of 100% Smokefree Outdoor Dining Areas (Apr. 1, 2008), available at <http://www.no-smoke.org/pdf/SmokefreeOutdoorDining.pdf>; Americans for Nonsmokers Rights Foundation, Summary of 100% Smokefree Parks (Apr. 1, 2008), available at <http://www.no-smoke.org/pdf/SmokefreeParks.pdf>.

employees who smoke, while others have adopted policies prohibiting employees from smoking, even off the job.⁷

Not all members of the public health community have welcomed these new measures as inevitable, necessary, or even appropriate. In fact, many thoughtful and respected tobacco control experts believe that prohibiting cigarette smoking on a public beach or in a private apartment goes too far in regulating the use of a product that is undeniably deadly, but that is nevertheless used by one of every five American adults.⁸ In 2007, recognizing that these new initiatives were beginning to spark debate around the world, the Tobacco Control Legal Consortium, headquartered at William Mitchell College of Law, organized a forum for leaders in tobacco control policy to exchange views on this issue in a structured format to identify the key points of consensus and disagreement. The Legal Consortium, a network of legal resource centers supporting tobacco control policy change throughout the United States, was a natural sponsor for such an event. In addition to helping officials throughout the country develop and defend effective public health policies, the Consortium serves as a nationally-recognized think tank, conducting legal and policy research and developing publications on emerging legal issues.

The Legal Consortium's symposium, "*Going Too Far? Exploring the Limits of Smoking Regulation*," was held at William Mitchell on October 23, 2007. The symposium was timed to coincide with the National Conference on Tobacco or Health, held in Minneapolis, Minnesota, on October 24–26, 2007, which enabled experts from around the country to participate. The interactive symposium was designed to allow attendees to improve their understanding of divergent views about the impact of expansive new smoke-free policies on autonomy, privacy, confidentiality, personal liberty, and public health, and to test their own views against those of respected colleagues. Symposium participants included approximately fifty nationally-recognized experts in tobacco control policy, public

7. See, e.g., Joe Robinson, *Light Up, Lose Your Job*, L.A. TIMES, Feb. 19, 2006, at M3.

8. U.S. DEP'T OF HEALTH & HUMAN SERVS., CTRS. FOR DISEASE CONTROL & PREVENTION, ADULT CIGARETTE SMOKING IN THE UNITED STATES: CURRENT ESTIMATES (Nov. 2007), http://www.cdc.gov/tobacco/data_statistics/factsheets/adult_cig_smoking.htm.

health lawyers, academics, and leading professionals from national public health organizations.

Before the event, the Legal Consortium surveyed invitees, to gauge their preliminary views on the appropriate scope of regulation. Participants were asked whether they “Strongly Agreed,” “Agreed,” “Disagreed,” “Strongly Disagreed,” or had “No Opinion” about statements such as the following:

- “Smoking should be banned in all outdoor spaces, including beaches, parks, and personal yards (unless the smoker’s yard is separated from other housing by at least 300 feet).”
- “If we want to prohibit smoking in all indoor public areas, workplaces, and multi-unit housing complexes, we actually hurt our cause by passing laws that prohibit smoking in cars and outdoor areas because we look fanatical.”
- “Employers should not have the right to prohibit employees from smoking during their personal time, as long as smoking is a legal activity for adults. What’s next—allowing employers to make hiring and firing decisions based on people’s risky hobbies, like motorcycle riding, or other lifestyle activities?”

While the survey was neither formal nor scientific, the responses were striking. On every question posed, the respondents were almost evenly divided, with about half in agreement with the statement and about half in disagreement. This division reflected not only the controversial nature of the policies being debated, but also the divergence of opinion within the public health community about the risks and benefits the policies represent—a divergence reflected in the articles presented here.

The symposium featured five speakers, all experts in public health law and tobacco control policy. Canadian law professor and policy expert David Swenor, who has been influential for a quarter of a century in making Canada a world leader in this area of public health, set the stage for debate with thoughtful insights about the way forward after all of the “obvious” steps have been taken. The symposium then featured two moderated point/counterpoint

sessions, with speakers presenting and debating differing views on each topic. Attendees were then invited to explore areas of consensus and debate the potential pitfalls of competing policy options. These spirited exchanges were moderated by Marice Ashe, Director of Public Health Law & Policy with the Public Health Institute in Oakland, California, and Micah Berman, Executive Director of the Tobacco Public Policy Center and visiting Professor at Capital University Law School in Columbus, Ohio.

II. SYMPOSIUM PROCEEDINGS

The symposium proceedings which follow are divided into three parts: a Canadian perspective on the limits of effective regulation as proven interventions are fully implemented and attention shifts toward less "obvious" options, arguably with declining marginal utility; two papers on the pros and cons of smoke-free policies in outdoor venues; and two papers on the pros and cons of smoke-free policies in the workplace.

David Sweanor, adjunct Professor of Law at the University of Ottawa, describes the impressive range of Canadian tobacco control measures enacted with great effort over the last twenty-five years. These include tobacco tax increases, elimination of most forms of tobacco advertising and promotion, graphic health warnings on tobacco product packages, stringent smoke-free laws, and tobacco product testing. As a result of these policies, cigarette smoking in Canada has been greatly reduced. Sweanor points out, however, that despite these hard-won advances, smoking persists as Canada's leading preventable cause of death, and he expresses concern that further regulatory progress may be increasingly constrained by tobacco control advocates who adhere to an "ideological view of appropriate interventions rather than pragmatic public health orientation."

Sweanor's concern about the risk of excessive or unwise regulation is shared by Simon Chapman, a leading figure in tobacco control and Professor of Public Health at the University of Sydney, Australia, who takes up the issue of outdoor smoking policies. While strongly supporting smoke-free policies in indoor venues, Chapman argues that the risk of exposure to toxic particles and gases outdoors is much less than indoors, and that risks are associated with exposure to smoke caused by the incomplete combustion of any biomass (fuel, barbecues, car exhaust, campfires, in addition to tobacco). He contends that smoke-free

policies are becoming detached from evidence of direct harm and that paternalistic zero-tolerance policies may undermine the scientific credibility of the evidence base for tobacco control and alienate important public health allies.

James Repace, a biophysicist, former senior policy analyst and scientist with the U.S. Environmental Protection Agency, and visiting Clinical Professor at Tufts University School of Medicine, disagrees that it is excessive to regulate smoking outdoors. He draws on several studies of the hazards of secondhand smoke exposure in outdoor venues, to argue that banning smoking outside and inside vehicles (especially where children are at risk) or wherever people are congregated, is scientifically justified.

Next, Lewis Maltby, an attorney and President of the National Workrights Institute, addresses the topic of smokefree policies in the workplace. Maltby expresses grave concerns that giving employers the authority to regulate the off-site smoking of their employees jeopardizes individual privacy and autonomy. He points out that smoking is just one of many private activities that affect employees' health and employers' health care costs, and that intrusive zero-tolerance tobacco regulation sets a dangerous precedent in the workplace.

Finally, Micah Berman, Executive Director of the Tobacco Public Policy Center and visiting Professor at Capital University Law School, and Dr. Rob Crane, an Assistant Professor of Medicine at Ohio State University, make the case that current tobacco control efforts are not reducing smoking rates quickly enough to prevent the "continuing public health catastrophe caused by cigarette smoking." They discuss the increased healthcare and productivity costs of smoking employees; legal measures, such as insurance surcharges, that employers can take to regulate smoking; and the overall need for tobacco control advocates to work with business to support private-sector initiatives such as tobacco-free workforce policies.

III. CONCLUSION

The symposium did not reach a breakthrough consensus about the proper limits of smoking controls. Even the most passionate advocacy and discussion could not resolve the disagreements among participants, who continue to debate the wisdom of expansive new regulation. Rather, the exchange served mainly to expose the complexities of the trade-offs involved, leaving

2008]

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many participants less confident of their own positions than when the day began. Perhaps that is the first step toward an answer. Certainly, given the deadly nature of the products involved, participants ended the day convinced that this is an area where, as Justice Holmes put it, the question of where to draw the line is worth arguing; even if, unlike Justice Holmes, they remained troubled about where to draw it.

A CANADIAN'S PERSPECTIVE: LIMITS OF TOBACCO REGULATION

David Sweanor J.D.[†]

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I. INTRODUCTION

Canada is widely seen as an example of what can be accomplished by effective tobacco control efforts.¹ The country's numerous policy precedents have been replicated in many countries and have shaped international efforts on tobacco regulation, such as the World Health Organization's Framework Convention on Tobacco Control.² The result of Canada's policy interventions is a decline in cigarette smoking over the past quarter century that few countries have been able to match.³

[†] Adjunct Professor of Law, University of Ottawa; Special Lecturer, Division of Epidemiology and Public Health, University of Nottingham.

1. David Sweanor & Ken Kyle, *Legislation and Applied Economics in the Pursuit of Public Health: Canada*, in TOBACCO CONTROL-POLICY: STRATEGIES, SUCCESSES AND SETBACKS 71 (Joy de Beyer & Linda Waverly Brigden eds., 2003).

2. See World Health Org. (WHO), *Framework Convention on Tobacco Control*, at http://www.who.int/tobacco/framework/WHO_FCTC_english.pdf (last visited Apr. 8, 2008).

3. See Donald W. Gardner & Richard J. Whitney, *Protecting Children from Joe Camel and His Friends: A New First Amendment and Federal Preemption Analysis of Tobacco Billboard Regulation*, 46 EMORY L.J. 479, 523-24 (1997); Jennifer Lesny, *Tobacco Proves Addictive: The European Community's Stalled Proposal to Ban Tobacco Advertising*, 26 VAND. J. TRANSNAT'L L. 149, 165 n.143 (1993); see also Health Canada, *The National Strategy: Moving Forward—The 2006 Progress Report on Tobacco Control*, Jan. 15, 2007, <http://www.hc-sc.gc.ca/hl-vs/pubs/tobac-tabac/prtc-relct->

The accomplishment is based, in part, on the fact that Canada started with such a horrendous problem. In the early 1980s, when I first started working full time on tobacco control efforts, Canada had one of the most serious smoking problems in the world. Per capita cigarette consumption was among the highest in the world, with over 40% of fifteen to nineteen-year olds reported to be daily smokers.⁴ There were no legislated restrictions on tobacco advertising, no legislated package warnings, and negligible protection from environmental tobacco smoke.⁵ Cigarette taxes were not only low, but had fallen in real terms for decades.⁶ This situation can be attributed in part to the fact that the tobacco manufacturers were powerful and extremely well connected politically.⁷ Also, Canada was a large producer of tobacco with a crop size that, on a per capita basis, was considerably larger than that of the United States at the time.⁸

Currently, Canada has tobacco taxes that are not only among the highest in the world,⁹ but are also expressly linked to the goal of reducing smoking.¹⁰ Tobacco advertising and promotion are essentially banned,¹¹ retail displays are disappearing,¹² graphic health warnings cover half the cigarette package,¹³ and additional health information is required as package inserts.¹⁴ Federal law mandates extensive constituent testing and requires disclosure of the results to the federal health department.¹⁵ All cigarettes must meet reduced ignition propensity standards.¹⁶ In addition, smoke-free spaces for public (and many private) areas are mandated by law,¹⁷ and there are legislated—and enforced—restrictions regarding where and to whom cigarettes can be sold.¹⁸

2006/part2_e.html#1b (showing a greater than 60% decline in per capita consumption from the early 1980s to 2005).

4. Sweanor & Kyle, *supra* note 1, at 73 (citing Health Canada, *Canadians Smoking: An Update*, Cat. No. H39-214/1991E (1991)).

5. *Id.*

6. *Id.* at 74.

7. *Id.* at 73.

8. *Id.*

9. *Id.* at 87–90.

10. *Id.*

11. See Tobacco Act, R.S.C., ch. 13, pt. IV(22) (1997).

12. *Id.* at pt. IV(29)–(30).

13. *Id.* at pt. III(15)(1); Sweanor & Kyle, *supra* note 1, at 84.

14. Tobacco Act, R.S.C., ch. 13, pt. III(15)(2).

15. *Id.* at pt. I(7).

16. *Id.*

17. See Non-Smokers' Health Act, R.S.C., ch. 15, pt.(3) (1985) (stating that

As a direct result of these policy interventions, per capita cigarette consumption in Canada is down by roughly 60% in the past quarter century.¹⁹ Canada entered the 1980s with a reported smoking prevalence of over 40%.²⁰ By 2006, only 18% of Canadians fifteen years and older reported being smokers and only 14% reported being daily smokers.²¹ Perhaps even more impressive, reported daily smoking among fifteen to nineteen-year olds decreased from 42% at the beginning of the 1980s to only 9% in 2006.²²

In examining the way policy changes have so dramatically reduced cigarette consumption in Canada, there can be a tendency to think that Canada is somehow different from other countries and that tobacco control policies were somehow easier to achieve. But public policy is like a game of football. Political changes do not happen spontaneously any more than a football moves up or down a field on its own. Policy issues, like footballs, move based on the forces brought into play. In Canada, the health side of policy was not actively engaged in the politics of tobacco until the early 1980s.²³ Once health policy became an issue, the country was radically transformed through a long series of campaigns, and virtually everything found on most standard lists of tobacco control strategies has now been implemented.²⁴

This raises some interesting questions, not the least of which is why a lawyer who was a key player in so many of these regulatory battles, who built a career around fighting for such measures and convincing others that policy interventions were the most important measures available to counter the health toll of smoking, would now be asked to talk about "the limits to regulation." To be honest to our long term health objectives, however, it is extremely important to critically examine what has been accomplished

nothing in the act requiring smoke-free environments affects any rights to protection from tobacco smoke under any Act of Parliament or provincial legislation).

18. See, e.g., Tobacco Act, R.S.C., ch. 13 (1997) (limiting how, where, and to whom cigarettes may be sold); Smoke-Free Ontario Act, R.S.O., ch. 10 (1994) ("No person shall sell or supply tobacco to a person who is less than 19 years old.").

19. See Health Canada, *supra* note 3.

20. *Id.*

21. *Id.*

22. *Id.*

23. See Sweanor & Kyle, *supra* note 1, at 74-81.

24. *Id.* at 74-95.

through policy interventions, to be open to the thought that some of our interventions have not achieved all of our goals, and to think about where tobacco control policy needs to head in the future.

II. "CHECKED ALL THE BOXES"

Canadian tobacco control advocates are perhaps in an ideal position to consider the limits of regulation because Canada is one of a growing number of countries that have implemented virtually all of the components of traditional comprehensive strategies to reduce smoking.²⁵ The country has "checked all the boxes." Despite all of the policy successes and the dramatic reductions in cigarette smoking over the past quarter century, however, there are still over 4.5 million Canadians who smoke,²⁶ and smoking is still the country's leading cause of preventable death.²⁷ Further, many policies have reached either a limit on what can be done, or at least a state of greatly diminishing marginal returns.

Tobacco control is not unlike efforts to contain other causes of disease where measures have been used that reduce the severity of a problem but still leave a large number of people who appear unresponsive to standard treatments. The medical profession deals with such issues on an ongoing basis, and the role of skilled physicians is to consider the limits of standard treatments, prevent iatrogenic conditions, and look to new interventions that can lessen the remaining risks. Public policy advocates dealing with tobacco-caused disease should be just as vigilant.

III. OBSTACLES TO TRADITIONAL REGULATION

Simply doing "more of the same" is a seemingly attractive option when actions to date have worked remarkably well. But, as with doctors who might be tempted to treat an antibiotic-resistant disease with more of the same antibiotics—after all, the treatment worked successfully with plenty of other people presenting with similar symptoms—it is important to consider the limits, as well as the successes of our interventions.

25. *Id.*

26. See Health Canada, *Canadian Tobacco Use Monitoring Survey*, Dec. 12, 2007, http://www.hc-sc.gc.ca/hl-vs/tobac-tabac/research-recherche/stat/_ctumsesutc_2006/wave-phase-1_summary-sommaire_e.html.

27. Health Canada, *Smoking and Your Body*, Jan. 24, 2008, http://www.hc-sc.gc.ca/hl-vs/tobac-tabac/body-corps/index_e.html.

A. Diminishing Returns

The first broad category of limits to regulation in Canada is the decreasing marginal benefits of simply continuing to apply traditional tobacco control interventions. An example of this can be seen in relation to tax policy. Canada was able to dramatically increase the price of cigarettes, in part because the price had been so low.²⁸ Tripling real prices has a tremendous dampening effect on consumption,²⁹ but tripling prices again is nearly impossible. Among other issues facing Canada, there is now a significant contraband market.³⁰ Although hard to estimate, it appears that cigarettes manufactured on, or shipped through, Indian Reserves could account for as much as 20% of current cigarette consumption in Canada's two most populous provinces.³¹ The presence of these alternative, untaxed sources of supply clearly limit the pursuit of policies that are aimed at making tobacco products less available to smokers through further tax increases. At the same time, measures aimed at requiring cigarettes to be made less palatable to smokers or otherwise trying to force smokers to quit via regulation³² become less viable in the face of this illicit supply. In effect, tobacco control policy aimed at forcing

28. See Sweanor & Kyle, *supra* note 1, at 91 (figure showing that the retail price for 200 cigarettes in Canada was less than twenty Canadian dollars into the early 1980s).

29. See WORLD HEALTH ORG., WHO REPORT ON THE GLOBAL TOBACCO EPIDEMIC, 2008: THE MPOWER PACKAGE 39 (2008), http://www.who.int/tobacco/mpower/mpower_report_full_2008.pdf [hereinafter WHO REPORT] ("A 70% increase in the price of tobacco could prevent up to a quarter of all smoking-related deaths worldwide.").

30. GFK RESEARCH DYNAMICS, ILLICIT USAGE OF CIGARETTES—NATIONAL STUDY FOR THE C.T.M.C.—CANADIAN TOBACCO MANUFACTURERS COUNCIL 8 (2007) (showing that 22% of purchased cigarettes in 2007 in Canada were contraband, an increase from 16.5% in 2006).

31. In Ontario, 31.6% of cigarettes purchased were contraband. *Id.* at 11. 40.7% of contraband cigarettes were bought on Indian Reserves. *Id.* at 26. As a result, approximately 12.9% of all cigarettes purchased in Ontario were contraband bought on Indian Reserves. In Quebec, 30.5% of purchased cigarettes were contraband. *Id.* at 11. 20.6% of contraband cigarettes came from Indian Reserves. *Id.* at 26. Thus, about 6.3% of all cigarettes purchased in Quebec were contraband bought on Indian Reserves.

32. See, e.g., PHYSICIANS FOR A SMOKE-FREE CANADA, TOBACCO-FREE PHARMACIES (2006), http://www.smoke-free.ca/pdf_1/pharmacy-backgrounder.pdf (advocating banning sales of tobacco in pharmacies).

abstinence is running into some of the same constraints as past and present prohibitionist approaches to alcohol and other drugs.³³

Further examples of diminishing returns from our policy interventions can be found in the realm of smoke-free policies. Making all workplaces and public areas smoke-free is expected to have a significant impact on both the number of smokers and the amount of cigarettes that are consumed.³⁴ A tremendous number of smokers are impacted when workplaces and public areas go smoke-free, but once we move into the realm of "tidying up the leftovers"—such as trying to extend smoke-free policies into areas like shared residential buildings—we can expect less overall impact, simply because we are dealing with far smaller numbers of affected people. There are certainly gains that can still be made through the application of more traditional approaches to tobacco control, but such gains pale in comparison to both the accomplishments of the past (the low hanging fruit is gone) and to the magnitude of the projected future health toll from smoking.

B. *Self-Imposed Limits*

The second broad category of limits on regulation is, paradoxically, effectively self-imposed by the culture of the tobacco control movement. Canada has done much to reduce smoking onset, encourage cessation, and protect non-smokers. Now, the country is running up against the limits of tobacco regulation caused by the attitude of the now-entrenched anti-tobacco community to regulation.³⁵ Tobacco control advocates have, like other social groups, developed their own paradigms through which they see the world and possibilities for further interventions.³⁶ As Thomas Kuhn's work demonstrates so well, such paradigms dictate

33. See generally CRAIG HERON, *BOOZE: A DISTILLED HISTORY* 235–66 (2003) (discussing Canada's experience with Prohibition in the 1920s).

34. See WHO REPORT, *supra* note 29, at 26 ("Smoke-free laws in workplaces can cut absolute smoking prevalence by 4%. Smoke-free policies in workplaces in several industrialized nations have reduced total tobacco consumption among workers by an average of 29%.")

35. See, e.g., Physicians for a Smoke-Free Canada, *About Us*, http://www.smoke-free.ca/eng_home/pschome_about.htm (last visited Apr. 12, 2008). The organization has "one goal," which is "the reduction of tobacco-caused illness through reduced smoking and exposure to second-hand smoke." *Id.*

36. See THOMAS S. KUHN, *THE STRUCTURE OF SCIENTIFIC REVOLUTIONS* 24 (2d ed. 1970) ("[T]he paradigm forces scientists to investigate some part of nature in a detail and depth that would otherwise be unimaginable.")

what is acceptable and can blind people to effective alternative courses of action.³⁷ The result is that a critical limitation on further regulation is actually self-imposed by the views of tobacco control advocates. This can either cause the pursuit of less effective health interventions or prevent the pursuit of strategies likely to yield greater gains.³⁸

Further regulatory progress is, for example, constrained by lobbying for impractical goals based on an ideological view of appropriate interventions rather than a pragmatic public health orientation. A group sharing an ideology often sees such schemes as deeply desirable, but these schemes stymie progress on policy interventions by redirecting energy and resources from practical goals to unattainable, ineffective, or even counter-productive strategies. Examples of this, in the case of Canada, include pursuing the nationalization of the tobacco industry³⁹ and pursuing restrictions on tobacco use that cannot be justified on the basis of protecting others, such as promoting prohibition of the use of *any* tobacco product *anywhere* on the grounds of hospital campuses.⁴⁰

C. Existing Regulations Seen as an End Instead of a Means

A further limitation on regulatory strategies is that, in some cases, existing regulatory measures, such as blanket advertising bans, graphic package warnings, or industry de-normalization, have come to be seen as an end in themselves rather than as a means of achieving improved public health.⁴¹ As such, efforts to re-think such measures are often rejected out-of-hand by anti-tobacco forces

37. See *id.* at 64 ("In the development of any science, the first received paradigm is usually felt to account quite successfully for most of the observations and experiments easily accessible to that science's practitioners.")

38. See *id.* ("[P]rofessionalization leads, on the one hand, to an immense restriction of the scientist's vision and to a considerable resistance to paradigm change.")

39. See CYNTHIA CALLARD ET AL., CURING THE ADDICTION TO PROFITS: A SUPPLY-SIDE APPROACH TO PHASING OUT TOBACCO 14-15 (2005), http://www.policyalternatives.ca/documents/National_Office_Pubs/2005/curing_the_addiction_summary.pdf.

40. Ottawa Hospital instituted a campus-wide smoke-free policy in June 2006. Ottawa Hospital, Designated Smoking Areas, <http://www.ottawahospital.on.ca/media/extras/smoke-zones-e.asp> (last visited Apr. 12, 2008). However, the hospital changed the policy in November 2007 and now allows smoking in three designated outdoor areas. *Id.* Unintended consequences of the policy included effects on patient and employee safety, as well as on neighboring businesses. *Id.*

41. See, e.g., WHO REPORT, *supra* note 29, at 36-38 (advocating "complete" and "comprehensive marketing bans" on tobacco companies).

as being “a step backwards.” Yet, this is inconsistent with the pragmatic approaches and recognition of the differences between means and ends advocated by such social reformers as Saul Alinsky,⁴² and it can stymie further progress at attaining health goals. For instance, a regulatory strategy could include advertising less toxic tobacco products to current smokers as an alternative to cigarettes, mandating smoker-friendly package messaging aimed directly at facilitating cessation, or differentiating between the culpability of different tobacco companies as a way of changing the behavior of the tobacco companies that are benefiting most from a status quo centered on cigarettes. In the absence of a willingness to re-examine previously passed regulatory strategies, however, progress in such areas is impossible.

This self-imposed constraint on acceptable action by some of those promoting a tobacco control agenda is perhaps most notable—and most damagingly counter-productive—when one examines the issue of harm reduction for nicotine users. There is no scientific doubt that there is a vast continuum of risk depending upon how someone obtains nicotine.⁴³ If all smokers obtained their nicotine from medicinal or low-toxicity non-combustion products, the health concerns about the drug would approach those associated with the contemporary use of caffeine.⁴⁴ Yet many tobacco control advocates generally dismiss the idea of harm reduction in favor of an abstinence-only (or “quit-or-die”) orientation.⁴⁵ The result is that these tobacco control advocates

42. See generally SAUL ALINSKY, *RULES FOR RADICALS* (Vintage Books ed. 1989) (1972).

43. See, e.g., Neal Benowitz, *The Safety and Toxicity of Nicotine*, TOBACCO ADVISORY GROUP, ROYAL COLL. OF PHYSICIANS, *HARM REDUCTION IN NICOTINE ADDICTION: HELPING PEOPLE WHO CAN'T QUIT* 88–103, 119–29 (2007), available at <http://www.rcplondon.ac.uk/pubs/Listing.aspx> (follow “Harm reduction in nicotine addiction” hyperlink) (discussing the variety of sources of nicotine and the use of nicotine replacement therapy); Kenneth E. Warner et al., *The Emerging Market for Long-Term Nicotine Maintenance*, 278 J. AM. MED. ASS'N 1087 (1997) (discussing alternative nicotine-delivery products and a variety of regulatory approaches).

44. See BENNETT ALAN WEINBERG & BONNIE K. BEALER, *THE WORLD OF CAFFEINE*, 303–15 (2001) (discussing how caffeine does cause physical dependence, and toxicity in high doses, but that caffeine use has been normalized). Although physical dependence results, it has not been classified as a clinical dependence syndrome. *Id.* at 303, 306–08.

45. See WHO REPORT, *supra* note 29, at 7 (“We must act now to reverse the global tobacco epidemic and save millions of lives.”). The WHO estimates one billion deaths from the “tobacco epidemic” in the twenty-first century “unless urgent action is taken.” *Id.* at 6.

often sound more like moralists seeking to save souls rather than health campaigners seeking to save lives.⁴⁶ This is consistent with what has been experienced in numerous other public health campaigns throughout history⁴⁷ and a critical question for future policy directions is just how quickly tobacco control efforts can evolve to become more pragmatic rather than dogmatic.

Abstinence-only orientation, among other things, has greatly limited the ability to implement product standards that can reduce risks for continuing users of nicotine, thereby fulfilling the “fourth leg of public health interventions.”⁴⁸ This orientation is also strongly at odds with past successful efforts to regulate goods and services which have been principally based on the recognition of differential risks and the resulting ability of regulation to reduce death, injury, and disease.⁴⁹ The failure to accept harm reduction strategies as part of its regulatory armamentarium has also sacrificed the moral high ground on the issue of the human rights of smokers. It has gone so far as to include gross

46. *Id.* “The cure for this devastating epidemic is dependent not on medicines or vaccines, but on the concerted actions of government and civil society.” *Id.* at 7.

47. *See, e.g.*, ALLAN M. BRANDT, *NO MAGIC BULLET: A SOCIAL HISTORY OF VENEREAL DISEASE IN THE UNITED STATES SINCE 1880* (1st ed. 1985) (discussing efforts to curb venereal diseases in the United States since 1880); ESTHER KAPLAN, *WITH GOD ON THEIR SIDE: HOW CHRISTIAN FUNDAMENTALISTS TRAMPLED SCIENCE, POLICY, AND DEMOCRACY IN GEORGE W. BUSH’S WHITE HOUSE 194–218* (2004) (discussing the Bush administration’s effort to combat teen pregnancy and STDs through an abstinence-only message); JAMES HARVEY YOUNG, *PURE FOOD: SECURING THE FEDERAL FOOD AND DRUGS ACT OF 1906* (1989) (discussing the campaign to pass the Federal Food and Drugs Act of 1906); David Sweanor et al., *Tobacco Harm Reduction: How Rational Public Policy Could Transform a Pandemic*, 18 *INT’L J. DRUG POL’Y* 70 (2007) (discussing alternative systems of nicotine delivery and a harm-reduction approach, as opposed to an abstinence-only approach).

48. *See* Sweanor et al., *supra* note 47, at 70 (delineating four broad categories of intervention aimed at “reducing the risk of death, injury or disease from any behaviour” as “efforts to prevent the behaviour ever taking place, efforts aimed at ending the behaviour, efforts aimed at preventing the activity from harming third parties, and efforts aimed at reducing the risks of those who engage in the behaviour”); *see also* David Sweanor, *Legal Strategies to Reduce Tobacco-Caused Disease*, 8 *RESPIROLOGY* 413, 417 (2003) (discussing both legislative and litigation efforts to address tobacco use).

49. *See e.g.*, SANDRA HEMPEL, *THE STRANGE CASE OF THE BROAD STREET PUMP: JOHN SNOW AND THE MYSTERY OF CHOLERA* (Univ. of Cal. Press 2007) (2006) (discussing John Snow’s effort to discover the cause behind an 1854 London cholera epidemic); YOUNG, *supra* note 47 (discussing the pre-cursors to the eventual regulation of food quality).

misrepresentations of relative risk in an apparent effort to adhere to an abstinence-only agenda.⁵⁰

IV. WHICH WAY FORWARD?

Canada stands as a good example of the limits of standard tobacco regulatory measures and, simultaneously, the limits imposed by the tobacco control community itself on what may be seen as acceptable regulatory measures. Seeking a way forward via the next generation of tobacco control is of huge importance if Canada is to successfully reduce the projected toll of a million smoking-caused deaths in the country over the next quarter century.⁵¹ Canada is also at the leading edge of global tobacco control policy.⁵² The path Canada takes will be of enormous importance to the rest of the world because it is projected that a billion smoking-caused deaths will occur globally this century.⁵³

50. See, e.g., *Can Tobacco Cure Smoking? A Review of Tobacco Harm Reduction: Hearing Before the Subcomm. on Commerce, Trade, and Consumer Protection of the H. Comm. on Energy and Commerce*, 108th Cong. 40 (2003) (statement of Richard Carmona, U.S. Surgeon General) ("Smokeless tobacco is not a safe alternative to cigarettes."); Carl V. Phillips et al., *You Might as Well Smoke*, BMC PUB. HEALTH 4, Apr. 5, 2005, <http://www.biomedcentral.com/content/pdf/1471-2458-5-31.pdf> (identifying 108 websites claiming "risks from [smokeless tobacco] are as bad or worse than those from smoking"). "[U]se of Western smokeless tobacco (ST) is substantially less harmful than smoking cigarettes." *Id.* at 1. See also PHYSICIANS FOR A SMOKE-FREE CANADA, REFLECTIONS ON THE 'SWEDISH EXPERIENCE': IS SNUS UP TO SNUFF? (2003), http://www.smoke-free.ca/pdf_1/snus.pdf (discussing health effects of a Swedish smokeless tobacco product).

51. See PARVIS GHADIRIAN, SLEEPING WITH A KILLER: THE EFFECTS OF SMOKING ON HUMAN HEALTH 6-7 (2008), available at http://www.hc-sc.gc.ca/hl-vs/alt_formats/hecs-sesc/pdf/pubs/tobac-tabac/swk-dat/swk-dat_e.pdf. About one in six smokers are projected to die by the 2020s-2030s, and there were 5.4 million Canadian smokers in 2001. *Id.*

52. See Sweanor & Kyle, *supra* note 1, at 71 (stating that the number of Canadian smokers declined from 1965-2001 from 50% of the population to 22%).

53. WHO REPORT, *supra* note 29, at 6.

GOING TOO FAR? EXPLORING THE LIMITS OF SMOKING REGULATIONS

Simon Chapman[†]

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It is customary in my home country of Australia at the opening of conferences to invite representatives of the original Aboriginal landowners to welcome delegates. A common way of doing this is to perform a “smoking ceremony” where eucalyptus leaves are burned.¹ This causes clouds of smoke to billow throughout the auditorium.² These ceremonies are also performed outdoors,³ the site of a new frontier in some nations of efforts to outlaw public smoking.⁴

The smell of burning eucalyptus always transports me to my childhood, growing up in a small country town where I would often sleep around campfires with friends, returning home with my clothes and hair thick with the smell of smoke. I have since learned

[†] Professor of Public Health, University of Sydney, sc@med.usyd.edu.au. This paper was produced under National Health and Medical Research Council (Australia) Grant—The Future of Tobacco Control #401558 (2006–09). Thanks to Stan Shatenstein, Becky Freeman, Ross Mackenzie, Vicki Entwistle, and Euan Tovey for critical comments on drafts.

1. See, e.g., Howard Spencer, *Watagan Leaves Used In Bridge Smoking*, BUSH TELEGRAPH MAG., Winter 2007, at 5, available at <http://www.dpi.nsw.gov.au/about-us/news/bush-telegraph-magazine/winter-2007>.

2. *Id.*

3. See *id.*

4. Eric Weiner, *The First Nonsmoking Nation: Bhutan Banned Tobacco. Could the Rest of the World Follow?*, SLATE, Jan. 20, 2005, <http://www.slate.com/id/2112449>.

that these adventures exposed my lungs to large volumes of smoke particles, the great majority of which are indistinguishable to those contained in secondhand cigarette smoke.⁵ However, I do not subscribe to a worldview that automatically places risks to health, however small, above every other consideration. Consequently, I do not believe that sitting around campfires, nor lighting them in suitable locations, should be banned as a health hazard.

Many will have visited cosy country restaurants and resorts where open log fires create an ambiance that transports us back to childhood memories of winter comforts and a somehow more authentic world. Well-flued fires send most smoke up the chimney, but as anyone entering a room where a log fire has burned the night before knows, considerable smoke also escapes into the room, impregnating carpets and furniture.⁶

I commence with these images because they provide salutary perspective on the debate about secondhand tobacco smoke (SHS). We focus this symposium on whether policy and advocacy for the regulation of SHS might sometimes go "too far." Many people are comforted by the smell of camp and log fires, even seeking out such exposures. But the same people will sometimes become outraged by the occasional fleeting exposure to tobacco smoke. While nearly identical in terms of their noxious content,⁷ both forms of smoke have entirely different *meanings*. If radically different concerns about inhaling essentially the same zoo of noxious particles were all that mattered here, we would have to conclude that many people can be irrational. But outrage about some forms of smoke and open acceptance of other forms is very explicable to sociologists as risk perception.⁸ Among the many key

5. Nigel Bruce, Rogelio Perez-Padilla & Rachel Albalak, *Indoor Air Pollution in Developing Countries: A Major Environmental and Public Health Challenge*, 78 BULL. WORLD HEALTH ORG. 1078, 1081-84 (2000), available at <http://www.who.int/docstore/bulletin/pdf/2000/issue9/bul0711.pdf>.

6. See generally Ms. Builder, *Make Fireplace Smoke-Free*, DETROIT FREE PRESS, Aug. 26, 2007, at RE4 ("More than half of fireplaces cause some smoky conditions inside homes, and it is difficult to totally rid the room of the smoky odor.").

7. Compare Luke P. Naeher et al., *Woodsmoke Health Effects: A Review*, 19 INHALATION TOXICOLOGY 67, 69-73 (2007), with J. Fowles & E. Dybing, *Application of Toxicological Risk Assessment Principles to the Chemical Constituents of Cigarette Smoke*, 12 TOBACCO CONTROL 424, 426-28 (2003).

8. See Karl Dake & Aaron Wildavsky, *Theories of Risk Perception: Who Fears What and Why?*, in RISK 42 (Edward J. Burger, Jr. ed., 1993) (1990) ("The most widely held theory of risk perception we call the knowledge theory: the often implicit notion that people perceive technologies (and other things) to be dangerous because they *know* them to be dangerous.").

determinants of meaning and outrage⁹ are whether a noxious agent is seen as voluntary or coerced, natural or artificial, and whether the risk has been amplified by lots of media attention.¹⁰ We do not read much about the dangers of inhaling campfire smoke, smoke from incense, smoke from candles, or smoke from cooking, but we read a lot about the dangers of SHS.¹¹

"Going too far" in condemning SHS connotes several undesirable features in policy. It can imply a questionable departure from the evidence base, a loss of proportionality, and the abandonment of important ethical principles in the development of public health policy. A careless attitude to matters of such importance can have repercussions that will be regretted and which do not stand up to close ethical audit.

Prohibitions on personal behaviours, like public smoking, can be justified by two related ethical principles: John Stuart Mill's famous articulation of the right to interfere with the liberty of people to harm others and the commonwealth justification¹² whereby the protection of the welfare rights of a large number of people sometimes requires the abrogation of the liberties of a smaller number of people.¹³ An example of this occurs with requirements that non-immunised children stay away from school during infectious disease outbreaks.¹⁴

Paternalism can be ethically justifiable when enacted in the interests of those incapable by virtue of legal immaturity or mental incapacity to act in their own interests.¹⁵ But "[p]aternalism is most

9. See generally Simon Chapman & Sonia Wutzke, *Not in Our Back Yard: Media Coverage of Community Opposition to Mobile Phone Towers—An Application of Sandman's Outrage Model of Risk Perception*, 21 AUSTL. & N.Z. J. PUB. HEALTH 614 (1997).

10. *Id.* at Tables 1 and 2.

11. See generally K. Clegg Smith, M. Wakefield & E. Edsall, *The Good News About Smoking: How Do U.S. Newspapers Cover Tobacco Issues?*, 27 J. PUB. HEALTH POL'Y 166 (2006).

12. See Lawrence O. Gostin, *Health of the People: The Highest Law?*, 32 J.L. MED. & ETHICS 509, 510 (2004) ("Consequently, people may have to forgo a little bit of self-interest in exchange for the protection and satisfaction gained from sustaining healthier and safer communities.").

13. See Philip Cole, *The Moral Bases for Public Health Interventions*, EPIDEMIOLOGY 73, 78–83 (1995) (discussing paternalism and moral justifications enforced by state police power by doing the greatest good for the greatest number of people).

14. *E.g.*, N.H. REV. STAT. ANN. § 141-C:20-c (LexisNexis 2006) (stating that children with a legal exemption from mandatory immunization for diseases shall not attend school threatened with outbreak of such diseases).

15. Cole, *supra* note 13, at 80 ("Paternalism . . . can be moral in dealing with children and with adults who are unable to make an informed judgment.").

odious when used as a justification for limiting the choices that adults make¹⁶ when they put only themselves at risk. Occasionally, paternalism is justified via the argument that the infringement of liberty involved is very trivial and the gains to health are very great, as is the case with mandatory seat-belt use.¹⁷

In debates about outdoor smoking bans, paternalistic arguments are often evident, but rarely explicit. Health care facilities which ban smoking outdoors often justify their actions in terms of normative role-modeling.¹⁸ This is ethically unproblematic when it comes to staff members who are contractually obligated to observe their employers' policies. But it represents ethically muddled thinking when it comes to patients and visitors to public hospitals. Public hospitals are not somehow "owned and controlled" by health authorities. If patients and visitors are not harming others by smoking outdoors, they ought not be coerced into signing up to the normative health promotion values of a hospital simply because they require hospital care or are visiting someone who does.

Almost all smokers regret having taken up smoking¹⁹ and many gratefully support paternalistically-motivated policies designed to discourage their smoking.²⁰ But we do not evaluate the ethics of public health by the willingness of people to give up their autonomy, nor with the efficiency or success of commandments to obey laws or directives.²¹ Morality is always inexorably about respect

16. *Id.* at 81.

17. Claire Andre & Manuel Velasquez, *For Your Own Good*, <http://www.scu.edu/ethics/publications/iie/v4n2/owngood.html> (last visited Mar. 26, 2008).

18. Simon Chapman, *Banning Smoking Outdoors is Seldom Ethically Justifiable*, 9 *TOBACCO CONTROL* 95, 96 (2000).

19. Geoffrey T. Fong et al., *The Near-Universal Experience of Regret Among Smokers in Four Countries: Findings from the International Tobacco Control Policy Evaluation Survey*, 6 *NICOTINE & TOBACCO RES.* 341, 341 (Supp. 3 2004).

20. Stacy Carter & Simon Chapman, *Smokers and Non-Smokers Talk About Regulatory Options in Tobacco Control*, *TOB. CONTROL*, 2006, http://tobacco.health.usyd.edu.au/site/supersite/contact/pdfs/TC2006_Carter.pdf.

21. See Chapman, *supra* note 18, at 96 ("Restrictions on smoking certainly do reduce smoking frequency and may also promote cessation. However, while this is an undoubted positive benefit, it cannot be used as a front end justification to restrict smoking. It is a fortunate byproduct of bans introduced because of Millian based concerns about stopping smokers harming others. The decision to bring benefit to oneself is a decision that should be up to the individual, not for others to impose.") (internal citations omitted).

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GOING TOO FAR?

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for the autonomy of individuals to act freely, providing their actions do not harm others.²²

To me, “going too far” in SHS policy means efforts premised on reducing harm to others, which ban smoking in outdoor settings such as ships’ decks, parks, golf courses, beaches, outdoor parking lots, hospital gardens, and streets.²³ It is also the introduction of misguided policies allowing employers to refuse to hire smokers, including those who obey proscriptions on smoking indoors while at work.

I emphasise that I am very supportive of the prevention of smoking in crowded, confined outdoor settings such as sports stadia, in most outdoor dining sections of (particularly small) restaurants, and in unblocking the entrances to buildings by having smokers move further away. In outdoor stadia, the concentration of smokers and their sardine-can proximity to others can result in significant prolonged SHS exposure over many hours.²⁴ Moreover, a great many people find it unpleasant to sit beside a smoker for many hours. As such, I support a ban on smoking in stadia as a way of preventing a public nuisance, even before matters of health risk are considered. I apply the same reasoning to my support of not allowing smokers to colonise the high-demand outdoor sections of restaurants. Policies that meaningfully segregate smokers from others are a reasonable civil society response to the unpleasantness of being enveloped in SHS while eating outdoors.

I. RISKS ARISE FROM CHRONIC EXPOSURE

The evidence used to justify the restriction of smoking in public settings has always rested on a bedrock of studies concerning the relationship of chronic diseases like lung cancer, respiratory, and cardiovascular disease to prolonged and repeated exposures in domestic and indoor occupational settings, generally over many

22. JOHN STUART MILL, ON LIBERTY 147 (Currin Shields ed., 1956) (1859) (“But with regard to the merely contingent or, as it may be called, constructive injury which a person causes to society by conduct which neither violates any specific duty to the public, nor occasions perceptible hurt to any assignable individual except himself, the inconvenience is one which society can afford to bear, for the sake of the greater good of human freedom.”).

23. Chapman, *supra* note 18, at 95.

24. See, e.g., James Repace, *Measurements of Outdoor Air Pollution from Secondhand Smoke on the UMBC Campus*, June 1, 2005, at <http://www.repacc.com/pdf/outdoorair.pdf>.

years (although much less time with infants).²⁵ Added to this are studies which show that even brief exposures to SHS can produce measurable changes in coronary flow velocity²⁶ and distensibility of the aorta,²⁷ to name just two. However, these studies of acute exposure, most recently reviewed by the United States Surgeon General,²⁸ typically define "brief" exposure to SHS as lasting between fifteen to thirty minutes²⁹—considerably more than the typical encounter with SHS in a park, beach, or street. In addition, all of these studies were conducted in indoor environments designed to replicate typical indoor exposure conditions.³⁰ These effects are also considered to be partially reversible.³¹

Of course, potentially harmful chronic exposure consists of a multitude of acute exposures.³² These can range from the sort of

25. See, e.g., DEP'T OF HEALTH & HUMAN SERVS., CHILDREN & SECONDHAND SMOKE EXPOSURE: EXCERPTS FROM THE HEALTH CONSEQUENCES OF INVOLUNTARY EXPOSURE TO TOBACCO SMOKE, A REPORT OF THE SURGEON GENERAL (2007), available at <http://www.surgeongeneral.gov/library/smokeexposure/report/fullreport.pdf> (explaining that exposure to secondhand smoke increases instances of Sudden Infant Death Syndrome (SIDS), lower birth weight, weaker lungs, and increased respiratory infections in infants); DEP'T OF HEALTH & HUMAN SERVS., THE HEALTH CONSEQUENCES OF SMOKING: A REPORT OF THE SURGEON GENERAL (2004), available at http://www.cdc.gov/tobacco/data_statistics/sgr/sgr_2004/chapters.htm (discussing a multitude of carcinogenic, cardiovascular, respiratory, reproductive, and other effects as a result of smoking).

26. See generally David S. Celermajer et al., *Passive Smoking and Impaired Endothelium-Dependent Arterial Dilatation in Healthy Young Adults*, 334 NEW ENG. J. MED. 150 (1996); Ryo Otsuka et al., *Acute Effects of Passive Smoking on the Coronary Circulation in Healthy Young Adults*, 286 J. AM. MED. ASS'N 436 (2001); Hitoshi Sumida et al., *Does Passive Smoking Impair Endothelium-Dependent Coronary Artery Dilatation in Women?*, 31 J. AM. C. CARDIOLOGY 811 (1998).

27. See generally Christodoulos Stefanadis et al., *Unfavorable Effects of Passive Smoking on Aortic Function in Men*, 128 ANNALS INTERNAL MED. 426 (1998), available at <http://www.annals.org/cgi/content/full/128/6/426>.

28. DEP'T OF HEALTH & HUMAN SERVS., THE HEALTH CONSEQUENCES OF INVOLUNTARY EXPOSURE TO TOBACCO SMOKE: A REPORT OF THE SURGEON GENERAL (2006), available at <http://www.surgeongeneral.gov/library/secondhandsmoke/report/fullreport.pdf>.

29. See, e.g., Otsuka, *supra* note 26, at 437 ("[A]ll subjects spent 30 minutes in the smoking room . . .").

30. See, e.g., *id.*

31. See Olli T. Raitakari et al., *Arterial Endothelial Dysfunction Related to Passive Smoking is Potentially Reversible in Healthy Young Adults*, 130 ANNALS INTERNAL MED. 578 (1999), available at <http://www.annals.org/cgi/reprint/130/7/578.pdf>.

32. Acute, or short-lived and intense, exposures to SHS may occur often. WEBSTER'S THIRD NEW INTERNATIONAL DICTIONARY 23 (3d ed. 1993) (acute is defined as something experienced intensely or powerfully; characterized by sharpness or severity; sudden onset, short course). Chronic exposure is "marked by long duration, by frequent recurrence over a long time and often by slowly

“acute” heavy exposure that a bar worker would get throughout an eight-hour shift all the way through to the fleeting exposure lasting a second or so that one might get when walking past a smoker in a park.³³ In an increasing number of nations, public policy has moved to outlaw all indoor occupational exposures, where the implication is that the exposure is both prolonged and involuntary.³⁴ The question we face today is whether it is reasonable to outlaw involuntary, fleeting, outdoor exposure.

A recent paper by Neil Klepeis and others providing data on outdoor exposures in places like sidewalk café tables, pub patios, and park benches has caused much excitement among supporters of outdoor smoking bans.³⁵ The study reported what common sense would predict: that SHS in outdoor settings is rapidly attenuated.³⁶ However, it also concluded that in situations where there are multiple smokers, “between 8 and 20 cigarettes smoked sequentially could cause an incremental 24-hour particle exposure greater than . . . the 24-[hour] EPA health-based standard for fine particles” for those within half a meter of them.³⁷

The authors refer to bar patios and outdoor café tables as where the above situation might happen. But they also state that “sitting next to a smoker on a park bench” might occasion such exposure, despite one paragraph earlier stating that “multiple smokers” are required to get particle exposures to levels that challenge the EPA standard.³⁸ “Multiple smokers” are rarely seated on park benches next to non-smokers for the time it would take to

progressing seriousness.” *Id.* at 402. Thus, recurrent acute exposures can add up to chronic exposure.

33. See DEP’T OF HEALTH & HUMAN SERVS., THE HEALTH CONSEQUENCES OF INVOLUNTARY EXPOSURE TO TOBACCO SMOKE: SECONDHAND SMOKE: WHAT IT MEANS TO YOU 3 (2006), available at <http://www.surgeongeneral.gov/library/secondhand-smoke/secondhandsmoke.pdf> (noting that “there is no safe amount of secondhand smoke.”).

34. See, e.g., *Global Momentum for Smoke-Free Indoor Environments at Tipping Point*, SCIENCE DAILY, Apr. 12, 2007, <http://www.sciencedaily.com/releases/2007/04/070411170909.htm> (recent article in the *New England Journal of Medicine* “describe[s] the growing momentum for indoor smoking bans in countries across the globe”).

35. Neil E. Klepeis et al., *Real-Time Management of Outdoor Tobacco Smoke Particles*, 57 J. AIR & WASTE MGMT. ASS’N 522, 533 (2007) (study results indicate that outdoor tobacco smoke (OTS) presents a possible hazard in situations such as outdoor patios or near smokers outside of a building).

36. *Id.* “Unlike indoor SHS levels, which decay slowly over a period of hours, OTS levels drop abruptly when smoking ends.” *Id.*

37. *Id.*

38. *Id.*

smoke eight to twenty cigarettes.³⁹ The paper says nothing about exposure to people on beaches, golf courses, relaxing on the grass in a park, or smoking in an outdoor car park.⁴⁰ I would invite reflection on the number of occasions that anyone in any of these situations is *ever* involuntarily closer than half a meter to a group of smokers consuming eight to twenty cigarettes. Yet we are being asked to embrace policies premised on the idea that smoking in such settings poses a danger to others.

II. IS TOBACCO SMOKE ANY MORE TOXIC THAN SMOKE FROM OTHER SOURCES OF BURNT BIOMASS?

As I stated earlier, while tobacco smoke has its own range of recognisable smells, there are few differences between the physics and chemistry of tobacco smoke and smoke generated by the incomplete combustion of any biomass, whether it be eucalyptus leaves, campfire logs, gasoline, or meat on a barbeque.⁴¹ Secondhand smoke is not so uniquely noxious that it justifies extraordinary controls of such stringency that zero tolerance outdoors is the only acceptable policy.⁴²

Many cities around the world ban coal and wood fuel fires and backyard incinerators in urban areas.⁴³ These are deemed to be so

39. Many of the experiments were measured in ten-minute intervals, approximately the length of time to smoke a cigarette. See, e.g., *id.* at 525 (experiments included burning three to five cigarettes successively for thirty to fifty minutes total).

40. *Id.* (on-site locations visited included "restaurant and pub patios, cafés, airport sidewalks, and a public park").

41. See generally Naeher, *supra* note 7, at 67-100 (discussing toxic effects of wood smoke).

42. See *id.* For example, the Clean Air Act monitors, regulates, and seeks to reduce many air pollutants (even hazardous pollutants), but does not speak in terms of elimination, or zero tolerance, of air pollutants. See U.S. ENVTL. PROT. AGENCY, THE PLAIN ENGLISH GUIDE TO THE CLEAN AIR ACT 16 (2007), available at <http://www.epa.gov/air/caa/peg/toxics.html#20>.

43. See, e.g., ENV'T PROT. AUTH., GOV'T OF S. AUSTR., THE STATE OF OUR ENVIRONMENT: STATE OF THE ENVIRONMENT REPORT FOR SOUTH AUSTRALIA 2003, at 19 (2003), available at <http://www.environment.sa.gov.au/soe2003/report.html> (stating that Adelaide, Australia has banned "burning waste on domestic premises (e.g. in backyard incinerators)"); DEP'T OF ENV'T & CLIMATE CHANGE, NEW S. WALES GOV'T, ENVIRONMENTAL ISSUES: AIR TOXICS: SUMMARY, available at <http://www.environment.nsw.gov.au/air/dopahhm/summary.htm> (last visited Apr. 1, 2008) (outlining government control of dioxins in the air by, among other things, banning backyard burning and through a wood and coal smoke reduction program); Theodore Parker Sr., Curriculum Unit 86.06.04: Where, Oh Where is All the Clean Air?, <http://www.yale.edu/ynhti/curriculum/units/1986/6/>

anti-social in their contribution to urban air pollution that they are now often totally outlawed.⁴⁴ Similarly, restaurants are required to meet expensive standards for the indoor ventilation of smoke caused by cooking.⁴⁵ However, outdoor commercial cooking such as beer garden barbeques and fund-raising hot dog and steak sizzles run in shopping centres on Saturday mornings have not attracted any attention so far. Neither have health authorities sought to close park facilities for barbequing. I suspect the very obvious reason for this is the amounts of smoke involved are trivial.

While control of industrial and vehicle carbon emissions have attracted immense regulatory controls, there is universal willingness to trade off continuing emissions from industry and motor vehicles for the sake of the massive utility that both bring to society.⁴⁶ The benzene we all breathe from car exhaust is the same as the benzene in SHS.⁴⁷ We hear many calls for car exhaust abatement and reduction, but we hear no serious calls for the banning of cars, which continue to contribute tonnes of benzene to the atmosphere each year.⁴⁸ So when it comes to outdoor smoking

86.06.04.x.html#top (last visited Apr. 1, 2008) (stating that Los Angeles has banned all backyard incinerators).

44. See Gregory J. Hobbs, Jr., *To See the Mountains: Restoring Colorado's Clean and Healthy Air*, 75 U. COLO. L. REV. 433, 444-46 (2004) (noting that Colorado banned "backyard refuse burning" in 1970 to combat severe air pollution in the Denver area, resulting from what one journalist called "that odious neighborhood nuisance, the backyard incinerator.").

45. In New York City for example, restaurants must provide adequate ventilation and if the exhaust hood is "not sufficient to remove excess fumes in kitchen," the restaurant can be cited for a violation of the city's health code. THE CITY OF NEW YORK, DEP'T OF HEALTH AND MENTAL HYGIENE, INSPECTION SCORING SYSTEM FOR FOOD SERVICE ESTABLISHMENTS app. 23B, Violation 10D (2005), available at http://www.nyc.gov/html/doh/downloads/pdf/inspect/foodservice_info.pdf. The city of Minneapolis has similar requirements, mandating that "ventilation hoods or canopies shall be installed over equipment where grease vapors, smoke, steam, odor, and heat are produced in the preparation of food." MINNEAPOLIS, MINN., CODE § 188.440 (Supp. 1999).

46. Cf. MAINE DEP'T OF ENVTL. PROT., BEAM BENZENE FACT SHEET, http://maine.gov/dep/air/beam/factsheets/benzene_fs.htm (detailing the adverse health effects of benzene exposure from burning fossil fuels) (last visited Apr. 2, 2008).

47. *Id.* ("[B]enzene comes from auto exhaust, gasoline stations, and industrial sources Cigarette smoke is a significant source of benzene for those who smoke or are breathing in second hand smoke, particularly in the home.").

48. See, e.g., HEALTH ASSESSMENT SECTION, BUREAU OF ENVTL. HEALTH, OHIO DEP'T OF HEALTH, BENZENE: ANSWERS TO FREQUENTLY ASKED HEALTH QUESTIONS 1 (2003), <http://www.odh.ohio.gov/ASSETS/B50DD769DEAF483D84C7A06756121521/benzen.pdf> (stating "[a]uto exhaust and industrial emissions account for

as a public risk to others, a sense of proportionality would seem to have many precedents. Against such considerations, arguments for zero tolerance of *any* tobacco smoke in outdoor public settings require interrogation of the assumptions and values driving such demands. In my experience, these are nakedly paternalistic, with heroic rearguard efforts being made to appropriate science in justification.

III. WHAT PROBLEMS WOULD ARISE FOR PUBLIC HEALTH POLICY IF AN ABSOLUTE ZERO TOLERANCE POLICY WAS ADOPTED FOR SECONDHAND SMOKE?

Outdoor smoking bans imply zero tolerance for exposure to SHS. In 2005, the World Health Organization (WHO) announced it would no longer employ smokers in any capacity (not just in its tobacco control division).⁴⁹ Presumably, it would not matter to the WHO if the world's most renowned health workers in, for example, malaria, HIV/AIDS, or the prevention of injury smoked: they would no longer be welcome inside the world's peak health agency. The WHO policy came under heated debate on an international tobacco control listserver, GLOBALink.⁵⁰ Several participants—also advocates for outdoor smoking bans—supported the WHO policy.⁵¹ They advanced a bizarre argument relevant to the debate on zero tolerance for SHS exposure.⁵²

They argued correctly that smokers, after smoking outdoors, returned indoors and “off-gassed” SHS smoke particles including volatile organics like benzene and styrene in their exhaled breath⁵³

about 20% of the total nationwide exposure to benzene. About 50% of the entire nationwide exposure to benzene results from smoking tobacco or exposure to tobacco smoke”).

49. World Health Org., WHO Employment, What Are We Looking for?, <http://www.who.int/employment/recruitment/en/> (last visited Apr. 12, 2008) (“Smokers and other tobacco users will not be recruited by WHO as and from 1 December 2005. This policy should be seen in the context of the Organization’s credibility in promoting the principle of a tobacco-free environment.”).

50. See GLOBALink, <http://www.globalink.org/> (list server is private and can be accessed by members only; membership is free, but prospective members must be tobacco-control advocates) (last visited Apr. 2, 2008).

51. See *id.*

52. See *id.*

53. Lance Wallace et al., *Exposures to Benzene and Other Volatile Compounds from Active and Passive Smoking*, 42 ARCHIVES ENVTL. HEALTH 272, 273 (1987) (reporting

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and from their clothing. This, they argued, was a further consideration for why workplaces might justifiably refuse to employ smokers.⁵⁴ However in 2007, a group of researchers showed that the mean time it took for a smoker to stop exhaling residual tobacco smoke particles after finishing a cigarette was 58.6 seconds, corresponding to about nine subsequent breathings.⁵⁵ The researchers concluded that asking smokers to wait two minutes before returning indoors after smoking would eliminate measurable particle dispersal from their breath.⁵⁶ No one has yet bothered to quantify the amount of smoke particle shedding that smokers emit from their hair and clothing but the levels would be almost infinitesimal.

Those who were animated about the need to stop smokers from “polluting” workplaces like this were in effect so intolerant of smokers that they argued if we can smell smoke on their breath or clothes, they should be denied employment in indoor occupations.⁵⁷ The *reductio ad absurdum*⁵⁸ of such a position would involve truly frightening policy obligations. Additionally, it would follow that we should not allow smokers to attend cinemas or theatres, travel on public transport, stand in queues, attend sporting matches, or perhaps even walk past us in the street because some non-smokers might find the experience of being near them intolerable.

We might also require employees to declare that they will no longer associate with smokers because they might then come to work with trace levels of smoke in their clothing. Perhaps WHO employees should be asked to divorce their smoking spouses, agree to send their smoking children to approved smoking cessation programs, and agree not to associate with smokers because these people might cause their parents to turn up to work at the WHO smelling of smoke.

that the breath of smokers contained significantly higher concentrations of benzene, styrene, ethyl-benzene, and xylenes).

54. See GLOBALink, *supra* note 50.

55. Giovanni Invernizzi et al., *Residual Tobacco Smoke Measurement of its Washout Time in the Lung and of its Contribution to Environmental Tobacco Smoke*, 16 TOBACCO CONTROL 29, 31 (2007)

56. *Id.* at 33.

57. See GLOBALink, *supra* note 50.

58. To disprove an argument “by showing it leads to a ridiculous conclusion.” BLACK’S LAW DICTIONARY 1302 (8th ed. 2004).

It is instructive to consider another common behaviour that holds implications for the health of others. Many people are allergic to the fine hair continually shed by pets such as dogs and cats. For example, in the United States, 17% of the population is allergic to cats.⁵⁹ A European study concluded that people with cat allergies who do not own cats "may be exposed to high levels of cat allergen . . . if they live in communities with high levels of cat ownership."⁶⁰

People with cat allergies quickly learn not to own or pat cats and will often avoid going into the houses of people who own cats because of the profusion of dander in such locations. But given that exposure to cats is higher in communities where cats are prevalent and that clothing and hair are key vehicles for exposing the allergens to those allergic to cats,⁶¹ by the same logic that seeks to protect non-smokers from SHS, why should we also not forbid cat ownership or force cat owners to shower and have a complete change of clothing before entering any public space?

Supporters of the WHO policy also argue correctly that smoke-free workplaces can act as incentives to cessation.⁶² This paternalism exhibited by supporters of the WHO policy in wanting to stop smokers from harming themselves is presumably motivated by benevolence: it is for smokers' own good. Therefore, let us assume that such benevolence extends to all avoidable causes of death, not just those caused by smoking (because if this is not the case, the WHO policy advocates would be nothing but single issue moralists who cared about a cancer death from smoking but not a cancer death from, say, sun exposure).

On the basis of this assumption, should we encourage the WHO to refuse to hire tanned Caucasians (for sending the wrong

59. See Samuel J. Arbes, Jr. et al., *Prevalences of Positive Skin Test Responses to 10 Common Allergens in the U.S. Population: Results from the Third National Health and Nutrition Examination Survey*, 116 J. ALLERGY CLINICAL IMMUNOLOGY 377, 378 (2005).

60. Joachim Heinrich, et al., *Cat Allergen Level: Its Determinants and Relationship to Specific IgE to Cat Across European Centers*, 118 J. ALLERGY CLINICAL IMMUNOLOGY 674, 674 (2006). Non-cat owners may be exposed to the cat allergen through "passive transport" in areas "where cat ownership is common." *Id.* at 680.

61. Anne-Sophie Karlsson & A. Renstrom, *Human Hair Is a Potential Source of Cat Allergen Contamination of Ambient Air*, 60 ALLERGY 961, 961-64 (2005). "[H]uman hair contains substantial amounts of cat allergen and may be an important source for transfer and deposition of cat allergen in public places, school and even homes." *Id.* at 963.

62. Caroline M. Fichtenberg & Stanton A. Glantz, *Effect of Smoke-Free Workplaces on Smoking Behaviour: Systematic Review*, 325 BRIT. MED. J. 188, 188 (2002).

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message about skin cancer risk), people who ride motorcycles (a hugely risky activity as evidenced by insurance premiums), anyone who chooses to participate in extreme sports (for example, mountaineering, lone ocean sailing, or base jumping, where the risks are immense), anyone who is obese, anyone who makes a virtue out of not exercising, and anyone who drinks excessively after hours? The list could go on.

IV. PSYCHOGENIC EXPLANATIONS OF CLAIMED HARMS FROM LOW-LEVEL SHS EXPOSURES

Advocates for smoke-free outdoor areas include those who passionately attest to being severely affected by even the smallest exposure to SHS. A compassionate attitude toward such claims would be to accept them uncritically at face value and not to subject them to any scientific scrutiny. But if public health policy is to be evidence-based, such claims need to be subjected to scientific assessment. Here, such individuals may have much in common with those who suffer from what was formerly known as multiple chemical sensitivity (MCS), now known as Idiopathic Environmental Intolerance (IEI).⁶³ Systematic review of research into chemical provocation studies conducted with people suffering from MCS concluded that the “mechanism of action is not specific to the chemical itself and might be related to expectations and prior beliefs.”⁶⁴ Three studies, for example, used olfactory masking agents to conceal stimuli, and none of these found associations between provocations and response.⁶⁵

Two recent reviews examined the evidence for both the toxicogenic hypothesis⁶⁶ (that susceptibility or intolerance of low levels of any environmental agent such as SHS explains multi-system symptoms either through toxicodynamic pathways or by sensitising neural pathways) and the psychogenic hypothesis (that IEI is a culturally learned phenomenon characterised by an overvalued idea of toxic harm explained by psychological,

63. Robert Keene McLellan et al., *Multiple Chemical Sensitivities: Idiopathic Environmental Intolerance (Acoem Position Statement)*, 41 J. OCCUPATIONAL & ENVTL. MED. 940, 940-42 (1999).

64. Jayati Das-Munshi et al., *Multiple Chemical Sensitivities: A Systematic Review of Provocation Studies*, 118 J. ALLERGY CLINICAL IMMUNOLOGY 1257, 1257 (2006).

65. *Id.*

66. Staudenmayer et al., *Idiopathic Environmental Intolerance: Part I: A Causation Analysis Applying Bradford Hill's Criteria to the Toxicogenic Theory*, 22 TOXICOLOGICAL REV. 4, 235-46 (2003).

psychosocial, and psychophysiological processes).⁶⁷ The reviews concluded that none of the Bradford Hill criteria for causation were satisfied by the toxicogenic theory, but that all of the criteria were met for the psychogenic theory.⁶⁸

There are many dimensions of antipathy to public smoking. Some people are affronted by the mere sight of smoking (although John Stuart Mill was emphatic that "mere offence" did not count as harm).⁶⁹ Others have an evangelical mission to use "tough love" to help others reduce and quit.⁷⁰ Communities often introduce standards on the conduct of citizens which relate to reducing nuisance and improving amenity, regardless of whether these issues impact health; neighbourhood building (aesthetic) approvals, dress codes, and noise rules are three broad examples.⁷¹ These standards reflect values that differ between communities, but do not seek refuge in claims about health. Public health research is debased when it lends bogus credibility to what are essentially matters of community preference. If local governments wish to stop people from smoking on beaches because of the intractable butt-littering that occurs, they should frame their actions in terms of litter reduction, not public health. If landlords want to prevent smokers from renting apartments because of the likelihood of complaints about smoke drift from other residents, they should be

67. Staudenmayer et al., *Idiopathic Environmental Intolerance: Part 2: A Causation Analysis Applying Bradford Hill's Criteria to the Psychogenic Theory*, 22 TOXICOLOGICAL REV. 4, 247-61 (2003).

68. Compare Staudenmayer et al., *supra* note 66, at 244, with Staudenmayer et al., *supra* note 67, at 257. In a 1965 article, Bradford Hill detailed nine criteria to determine when the environment causes medical conditions, instead of merely being associated with them. Austin Bradford Hill, *The Environment and Disease: Association or Causation*, 58 PROC. ROYAL SOC'Y MED. 295 (1965). They are: strength of association; consistency of the association; specificity of the association; the temporal relationship of the association; presence of a biological gradient; biological plausibility of the association; coherence of a causation theory; experimental analyses; and analogy to more famous diseases. *Id.* See also Staudenmayer et al., *supra* note 66, at 236 (table summary of nine Bradford Hill criteria.).

69. See MILL, *supra* note 22, at 135 ("The acts of an individual may be hurtful to others or wanting in due consideration for their welfare, without going to the length of violating any of their constituted rights.").

70. See, e.g., Jeffrey Mapes, *Study Promotes "Tough Love" of Measure 50*, OREGONIAN, Nov. 2, 2007; see also Andre Picard, *"Tough Love—Smokers Denied Surgery*, ASH, Mar. 2005, available at <http://no-smoking.org/march01/03-05-01-3.html>.

71. See generally John Copeland Nagle, *Moral Nuisances*, 50 EMORY L.J. 265, 276-77 (2001).

at liberty to do so, but need not invoke public health justifications in the process.

My final concern about the current excesses in secondhand smoke policy is that we risk undermining the much needed case for smoke-free indoor policies in most parts of the world where smoking remains a normal, unremarkable, and unregulated activity.⁷² Health workers in those nations are today desperate to convince governments of how reasonable it should be to remove involuntary exposure from SHS in occupational and indoor public settings.⁷³ They marshal evidence about disease caused by long-term exposure and staunchly defend the credibility of that evidence from the predations of the tobacco and hospitality industries⁷⁴ which are intent on exposing those risks as trivial.

Opponents of clean indoor air will be able to point to dubious "endgame" advocacy in nations⁷⁵ which have successfully introduced indoor smoking bans, and invoke slippery slope precedents that advocates actually want to ban smoking

72. Paula C. Johnson, *Regulation, Remedy, and Exported Tobacco Products: The Need for a Response from the United States Government*, 25 SUFFOLK U. L. REV. 1, 36-37 (1991) (explaining that there are many countries that have not yet enacted any legislation to control smoking and that those countries have no restrictions on advertising or public smoking). See also WORLD HEALTH ORG., WHO REPORT ON THE GLOBAL TOBACCO EPIDEMIC, 2008—THE MPOWER PACKAGE (2008), available at <http://www.who.int/tobacco/mpower/en/index.html>. According to the WHO, seventy-four countries still allow smoking in health-care institutions and about the same number allow smoking in schools. *Id.* at 44. For example, China, Japan, and Russia do not ban smoking in health-care facilities, and Japan and Russia do not ban smoking in school. *Id.* at 85, 117, 145.

73. See, e.g., F. Howell, *Editorial, Smoke-Free Bars in Ireland: A Runaway Success*, 14 TOBACCO CONTROL, 73, 73 (2005) (noting that the ban on smoking in Irish bars is popular with the public and that negative economic effects have been minimal); see also Charles W. Schmidt, *A Change in the Air: Smoking Bans Gain Momentum Worldwide*, ENVIRONNEWS, Aug. 11, 2007, available at <http://www.pubmedcentral.nih.gov/articlerender.fcgi?artid=1940108>.

74. See David Champion & Simon Chapman, *Framing Pub Smoking Bans: An Analysis of Australian Print News Media Coverage March 1996–March 2003*, 59 J. EPIDEMIOLOGY & COMMUNITY HEALTH 8, 679-84 (2005) (discussing tactics of the Australian Hotels Association and tobacco control groups in the light over legislation to make bars smoke free).

75. E.g., Jordan Raphael, Note, *The Calabasas Smoking Ban: A Local Ordinance Points the Way for the Future of Environmental Tobacco Smoke Regulation*, 80 S. CAL. L. REV. 393, 416 (2007) (discussing the efforts of anti-smoking advocates in the United States to ban smoking in multiunit residences); Lila E. Slovak, *Smoke Screens: Why State Laws Making It a Crime to Smoke in Cars Containing Children Are a Bad Idea*, 41 FAM. L.Q. 601, 602 (2007) (noting that Bangor, Maine has banned smoking in cars with minors under age eighteen and that legislators in fifteen states have introduced similar legislation).

everywhere. This may unfairly brand tobacco control advocates as clandestine extremists with agendas which abandon all proportionality in the formulation of policy. Such views are likely to undermine the credibility of advocacy for evidence-based policies⁷⁶ to the great detriment of perhaps hundreds of millions of citizens.

76. See Katherine Bryan-Jones & Simon Chapman, *Political Dynamics Promoting the Incremental Regulation of Second Hand Smoke: A Case Study of New South Wales, Australia*, 6 BMC PUB. HEALTH 1, 192 (2006) (discussing how "economic, ideological, and anecdotal arguments" can overpower scientific evidence supporting bans on smoking in bars and clubs).

**BENEFITS OF SMOKE-FREE REGULATIONS IN
OUTDOOR SETTINGS: BEACHES, GOLF COURSES,
PARKS, PATIOS, AND IN MOTOR VEHICLES**

James L. Repace[†]

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Some persons feel that although establishing smoke-free buildings is justified, establishing smoke-free areas outdoors is not. This paper discusses the toxicity of tobacco smoke, the factors determining its concentration, and argues that tobacco smoke in places where people live, work, or congregate, whether indoors or outdoors, poses a nuisance to many, and both an acute and chronic health hazard to some. Thus, local governments are justified in establishing smoke-free zones outdoors.

Tobacco smoke contains at least 172 toxic substances, including 3 regulated outdoor air pollutants, 33 hazardous air pollutants, 47 chemicals restricted as hazardous waste, and 67 known human or animal carcinogens.¹ The law of conservation of

[†] Visiting Assistant Professor, Tufts University School of Medicine and Repace Associates, Inc., 101 Felicia Lane, Bowie, MD 20720 U.S.A., <http://www.repace.com/>.

1. JAMES L. REPACE, EXPOSURE ANALYSIS 203 (Wayne R. Ott et al. eds., 2006).

mass dictates that this must be true whether tobacco smoke is inhaled in the act of smoking, or inhaled by nonsmokers out of the air indoors or outdoors, known as secondhand smoke (SHS).

The concentration of tobacco smoke pollution in buildings and in vehicles is proportional to the density of smokers, and inverse to the ventilation rate.² Tobacco smoke pollution outdoors (outdoor tobacco smoke—or OTS), is far more complicated, being determined by the density and distribution of smokers, the wind velocity (direction and speed), and the stability of the atmosphere.³ High SHS concentrations are produced by high smoker density, low wind velocities, and stable atmospheric conditions. SHS concentrations persist for hours after smoking ceases indoors, while OTS concentrations dissipate rapidly after smoking ceases outdoors.⁴ However, during smoking, OTS levels outdoors may be as high as SHS indoors, especially in close proximity to smokers.

I. STATE AND LOCAL OUTDOOR SMOKING BAN POLICIES

Several states have taken steps to restrict smoking in outdoor locations and even in automobiles where children are present. As a result of research conducted by the state, culminating in the listing of OTS as a Toxic Air Contaminant, some of the most restrictive ordinances have been passed in California.

The City Council of Calabasas, California, passed an ordinance that took effect January 1, 2007, “prohibit[ing] smoking in all public places, indoor or outdoor, where anyone might be exposed to secondhand smoke.”⁵ The outdoor ban “includes outdoor cafes, bus stops, soccer fields, condominium pool decks, parks and sidewalks.”⁶ “Smoking in one’s car is allowed, unless the windows

2. James L. Repace, *Fact Sheet: Outdoor Air Pollution from Secondhand Smoke* (2005), available at http://www.repace.com/pdf/OTS_FACT_SHEET.pdf.

3. *Id.*

4. Neil E. Klepeis et al., *Real-Time Measurement of Outdoor Tobacco Smoke Particles*, 57 J. AIR & WASTE MGMT. ASS’N 522, 522 (2007); James L. Repace, Address Before the 13th World Conference on Tobacco OR Health: Abstract of Indoor and Outdoor Carcinogen Pollution on a Cruise Ship in the Presence and Absence of Tobacco Smoking (Oct. 17, 2004) (unpublished working paper, on file with author).

5. John M. Broder, *Smoking Ban Takes Effect, Indoors and Out*, N.Y. TIMES, Mar. 19, 2006, at 1; CALABASAS, CAL., MUN. CODE §§ 8.12.030–040 (2006), available at <http://www.bpcnet.com/codes/calabasas>.

6. Broder, *supra* note 5, at 1.

are open and someone nearby might be affected.”⁷ Violators face “warnings, fines of up to \$500 for repeat offenses, and misdemeanor charges.”⁸ The ordinance followed a few “weeks after the California Air Resources Board declared secondhand smoke to be a Toxic Air Contaminant that can lead to respiratory infections, asthma, lung cancer, heart disease and death.”⁹ “Smoking has been prohibited on most Southern California beaches and piers since 2003.”¹⁰ Nationwide, in excess of “700 cities . . . have enacted ordinances placing some limits on outdoor smoking, according to the American Nonsmokers’ Rights Foundation.”¹¹ California Governor Arnold Schwarzenegger “signed a bill [making] it an infraction to smoke in a vehicle if someone under age 18 is present.”¹² Other California smoking prohibitions “include a ban on smoking in enclosed workplaces and within 25 feet of a playground.”¹³ Legislation banning smoking in cars with young children present was adopted in Arkansas in 2006, and similar smoking bans with children have been introduced in the states of California, Georgia, Michigan, New Jersey, New York, Pennsylvania, and Vermont.¹⁴ Louisiana has limited smoking in cars when children 13 and younger are in the vehicle.¹⁵

II. STUDIES OF OUTDOOR TOBACCO SMOKE CONCENTRATIONS

A limited number of controlled experiments and field studies of OTS have been conducted in California, Europe, Maryland, and the Carribean. These studies show that OTS levels outdoors are often as high as SHS levels indoors, although there are differences in the persistence of OTS levels once smoking ceases.

7. *Id.*

8. *Id.*

9. *Id.*

10. *Id.* at 2.

11. *Id.*

12. Steve Lawrence, *State Bans Smoking with Kids in Vehicle*, ASSOCIATED PRESS, Oct. 11, 2007.

13. *Id.*

14. Wayne Ott et al., *Air Change Rates of Motor Vehicles and In-Vehicle Pollutant Concentrations from Secondhand Smoke*, 1-14 J. EXPOSURE SCI. & ENVTL. EPIDEMIOLOGY 1, 13 (2007).

15. Vaughn W. Rees & Gregory N. Connelly, *Measuring Air Quality to Protect Children from Secondhand Smoke in Cars*, 31 AM. J. PREVENTIVE MED. 363, 363 (2006).

A. California

The California Air Resources Board (CARB) study measured OTS nicotine concentrations outside an airport, college, government center, office complex, and amusement park.¹⁶ CARB found that at these typical outdoor locations, Californians may be exposed to OTS levels as high as indoor SHS concentrations.¹⁷ CARB found that OTS was strongly affected by the number of smokers, and moderately affected by the size of the smoking area and the measured wind speed.¹⁸ The CARB study concluded that OTS concentrations are detectable and are sometimes comparable to indoor concentrations. The study also demonstrated that the number of cigarettes being smoked (i.e., total source strength), the position of smokers relative to the receptor, and atmospheric conditions can all lead to substantial variation in average exposures.¹⁹ CARB concluded that OTS is a "Toxic Air Contaminant."²⁰

A Stanford University study measured OTS respirable particle concentrations in outdoor patios, on airport and city sidewalks, and in parks.²¹ It also conducted controlled experiments of SHS indoors and OTS outdoors.²² It found that mean SHS particle concentrations outdoors can be comparable to SHS indoors.²³ Within about 2 feet of a smoker, OTS was quite high and comparable to SHS concentrations measured indoors.²⁴ The study found that levels measured in 2 sidewalk cafés were detectable at distances beyond 13 feet.²⁵ It further found that, in contrast to SHS, OTS does not accumulate and that OTS peaks are more

16. See CAL. ENVTL. PROT. AGENCY: AIR RESOURCES BOARD, PROPOSED IDENTIFICATION OF ENVIRONMENTAL TOBACCO SMOKE AS A TOXIC AIR CONTAMINANT (2005), <http://repositories.cdlib.org/tc/surveys/CALEPA2005>.

17. *Id.* at 5-12.

18. *Id.* at 23.

19. *Id.* at 82-91.

20. *Id.* at 25.

21. Klepeis et al., *supra* note 4, at 525 (study conducted via "15 on-site field visits to 10 public outdoor locations containing smokers").

22. *Id.* at 525-26.

23. *Id.* at 531.

24. *Id.* at 532 ("Generally, average levels within 0.5 m[eters] from a single cigarette source were quite high and comparable to indoor levels . . .") (0.5 meters equals approximately 1.64 feet).

25. *Id.* ("[D]uring 2 on-site proximity experiments . . . OTS was still detectable . . . at distances of approximately 3-4 m[eters] from a single cigarette on sidewalk patios.") (4 meters equals approximately 13.12 feet).

sensitive to source-receptor proximity and wind velocity.²⁶ Thus, long-term averages for OTS concentrations are averaged over a large number of transient peaks, which only occur when smokers are active, whereas indoor concentrations remain high long after smoking has ceased. The total dose to a person indoors from each cigarette will be greater than that received from each cigarette smoked outdoors. The study found upwind OTS concentrations very low and downwind OTS much higher.²⁷

B. Denmark

Boffi measured OTS respirable particle pollution in a car park (open space), outdoors in front of a conference center with smokers under a roof (18 smokers during a measurement time of 35 minutes), indoors in the nonsmoking conference center, along the motorway to Copenhagen city centre, and inside a Copenhagen restaurant where smoking was allowed.²⁸ He found that mean values observed with smokers in front of the conference center were significantly higher than the outdoor parking place, indoor conference center, motorway, and Copenhagen outdoor official data.²⁹

C. Finland

Repace and Rupprecht measured OTS respirable particle pollution in 5 outdoor cafés and on city streets in downtown Helsinki.³⁰ They found that air pollution levels during August 2003 in Helsinki outdoor cafés with many smokers were 5 to 20 times higher than on the sidewalks of busy streets polluted by bus, truck, and auto traffic.³¹

26. *Id.* at 530-32.

27. *Id.* at 532.

28. R. Boffi et al., *A Day at the European Respiratory Society Congress: Passive Smoking Influences Both Outdoor and Indoor Air Quality*, 27 *EUR. RESPIRATORY J.* 862, 862 (2006).

29. *Id.* at 863.

30. James L. Repace & Ario Alberto Rupprecht, Paper Presented at the 13th World Conference on Tobacco OR Health: Outdoor Air Pollution from Secondhand Smoke (July 14, 2006).

31. *Id.*

D. Maryland

Repace measured outdoor fine particle and carcinogen concentrations from OTS on the campus of the University of Maryland in Baltimore County.³² Using controlled experiments, Repace found that cigarette smoke respirable particulate (RSP) concentrations decline approximately inversely with distance downwind from the point source, whereas cigarette smoke carcinogen concentrations decline approximately inversely as the square of the distance from source to receptor.³³ The experiments showed that OTS smoke levels did not approach background levels either for fine particles or carcinogens until about 23 feet from the source.³⁴ Levels of irritation begin as low as 4 micrograms per cubic meter ($\mu\text{g}/\text{m}^3$) SHS-RSP, and levels of odor detection are as low as 1 $\mu\text{g}/\text{m}^3$.³⁵ Thus SHS odor would be detectable in these experiments as far as 7 meters from the source, and levels of irritation would begin at 4 meters from the source.³⁶

E. The Caribbean

Experiments conducted on a cruise ship underway at 20 knots at sea in the Caribbean showed that OTS in various smoking-permitted outdoor areas of the ship tripled the level of carcinogens to which nonsmokers were exposed relative to indoor and outdoor areas in which smoking did not occur, despite the strong breezes and unlimited dispersion volume.³⁷ Moreover, outdoor smoking areas were contaminated with carcinogens to nearly the same extent as a popular casino on board in which smoking was permitted.³⁸

32. Repace, *supra* note 2.

33. *Id.* at 9.

34. *Id.* at 10.

35. Martin H. Junker et al., *Acute Sensory Responses of Nonsmokers at Very Low Environmental Tobacco Smoke Concentrations in Controlled Laboratory Settings*, 109 ENVTL. HEALTH PERSP. 1045, 1050-51 (2001).

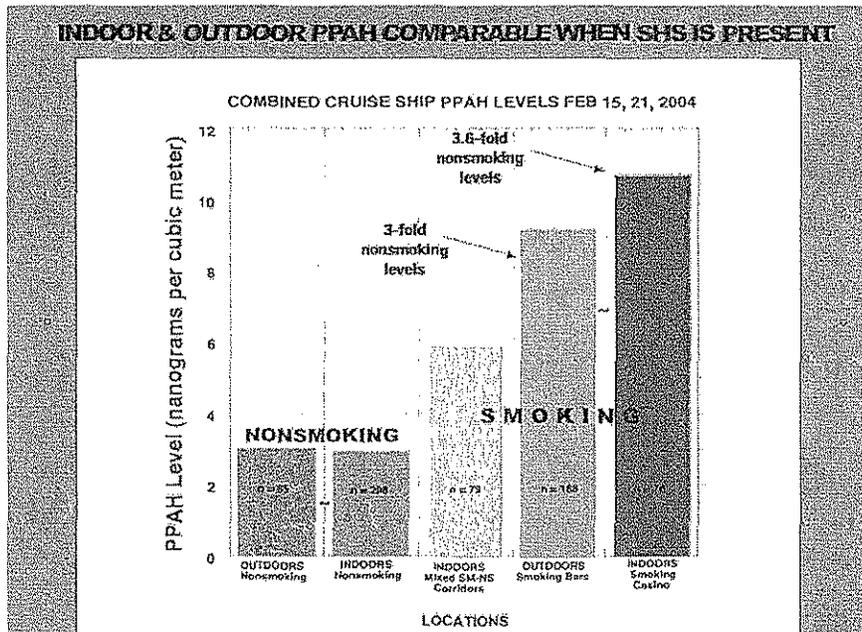
36. *See id.* at 1049-50.

37. James L. Repace, Address at the 14th Annual Conference of the International Society of Exposure Analysis: Indoor and Outdoor Carcinogen Pollution on a Cruise Ship (Oct. 2004).

38. *Id.*

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Figure 1. Indoor and Outdoor Carcinogen Pollution on a Cruise Ship³⁹



Outdoor carcinogen levels in the presence of smoking in a ship underway at sea at 20 knots of speed is comparable to indoor levels in the ship's casino, again showing a strong proximity effect despite the open air and strong breezes.⁴⁰

F. Smoking in Cars

Two studies have shown that secondhand smoke in the small volumes of cars leads to very high exposures. Ott, Klepeis, and Switzer measured carbon monoxide (CO) and fine particle (PM_{2.5}) from multiple cigarettes smoked inside of 4 motor vehicles under both moving and stationary conditions, and found high particle concentrations inside cars with smokers due to the small volumes of the passenger compartments, and found that the concentrations become extremely high with the low air change rates caused by

39. *Id.*

40. *Id.*

closing windows and air conditioning.⁴¹ They concluded that these extremely high particle concentrations constitute a serious health risk for adults and children who are passengers in a car with a smoker.⁴² These findings were echoed by a Harvard School of Public Health report, concluding that SHS in cars can be up to 10 times more of a health risk than SHS in a home.⁴³ At least 20 states and a number of municipalities have considered limiting smoking in cars where minors are present.⁴⁴

III. DISCUSSION

Individual cigarettes are point sources of air pollution; smokers in groups become an area source of SHS pollution. Outdoor air pollutants from individual point sources are subject to plume rise if the temperature of the smoke plume is hotter than the surrounding air; however if the plume has a small cross-section, as for a cigarette, it will rapidly cool and lose its upward momentum, and then will subside, as the combustion particles and gases are heavier than air.⁴⁵ Thus, in the case of no wind, the cigarette plume will rise to a certain height and then descend, and for a group of smokers, for example, sitting in an outdoor café, on a hospital patio, or in stadium seats, their smoke will tend to saturate the local area with SHS.

In the case where there is wind, the amount of thermally-induced plume rise is inversely proportional to the wind velocity—doubling the wind velocity will halve the plume rise.⁴⁶ In this case, the cigarette plume will resemble a cone tilted at an angle to the vertical.⁴⁷ The width of the cone and its angle with the ground will depend upon the wind velocity: a higher wind will create a more horizontal but wider cone (due to increased turbulence), with uncertain impact on exposure to SHS for downwind nonsmokers.⁴⁸ If there are multiple cigarette sources forming an area source of

41. Ott et al., *supra* note 14, at 15.

42. *Id.*

43. Rees & Connelly, *supra* note 15, at 363. The report concludes that levels of RSP measured in private cars were unsafe for children at prolonged rates. *Id.* at 367. See also Lawrence, *supra* note 12.

44. Lawrence, *supra* note 12.

45. Repace, *supra* note 2, at 1.

46. *Id.* See generally SAMUEL J. WILLIAMSON, FUNDAMENTALS OF AIR POLLUTION (1973).

47. WILLIAMSON, *supra* note 46; Repace, *supra* note 2, at 1.

48. WILLIAMSON, *supra* note 46; Repace, *supra* note 2, at 1.

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SHS, the downwind concentrations will consist of multiple intersecting cones, i.e., overlapping plumes of increased concentration in the volume of overlap, before re-dissipating with increasing distance from the area source.⁴⁹ As the wind direction changes, SHS pollution will be spread in various directions, fumigating downwind nonsmokers.

A. Symptomatic Effects

There are a number of studies that show that nonsmokers suffer both illness and irritation from tobacco smoke exposure. SHS contains a large quantity of respirable particles, which can cause breathing difficulty for those with chronic respiratory diseases, or trigger an asthmatic attack in those with disabling asthma.⁵⁰ For the remainder of nonsmokers, Junker et al. report eye, nasal, and throat irritation thresholds for 24 healthy young adult females for repeated exposures over the course of 2 hours, corresponding to an SHS-PM_{2.5} concentration of about 4.4 µg/m³.⁵¹ As Figure 2 shows, these levels are exceeded even at distances 3 or 4 meters (10 to 13 feet) downwind of a smoker in a sidewalk café, posing an irritation and annoyance problem even for healthy nonsmokers. With larger numbers of smokers, this irritating cloud of pollution would extend to even greater distances. Thus, there is scientific data to support OTS being both a health threat to asthmatic patients and a public nuisance to nonsmokers in general.

49. WILLIAMSON, *supra* note 46.

50. James Repace, *Indoor Air Pollution and the Asthma Epidemic 5* (July 1996) (unpublished working paper, on file with author).

51. Junker et al., *supra* note 35, at 1049.

Figure 2. Outdoor Tobacco Smoke (OTS) In a Sidewalk Café and a Backyard Patio⁵²

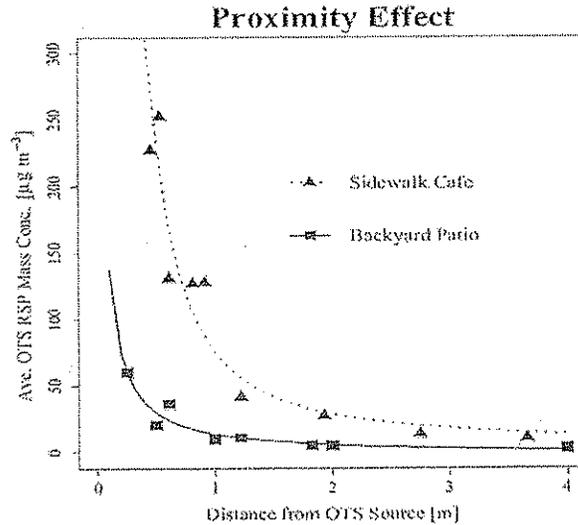


Figure 2. Overall average OTS mass concentrations as a function of proximity to the OTS source measured during experiments on a backyard patio using smoldered cigarettes, and two sidewalk cafés with human-smoked and smoldered cigarettes, for which source proximity was precisely recorded. Background RSP levels were subtracted from all measurements.

Figure 2 illustrates the proximity effect in a sidewalk café: outdoor tobacco smoke was still detectable at distances of approximately 3 to 4 meters from a single cigarette on sidewalk patios. Slightly elevated particle concentrations were detected at a distance of 8 meters from a cluster of burning cigarettes and around the corner of the house during a backyard patio experiment.⁵³

Speer investigated subjective reactions of nonsmokers who developed symptoms from passive smoking.⁵⁴ Speer divided the nonsmokers into 2 groups: 191 nonsmokers with allergic diseases such as nasal allergy, asthma, and allergic headache, and a control group of 250 non-allergic nonsmokers without such diseases.⁵⁵

52. Klepeis et al., *supra* note 4, at 532, fig. 3.

53. *Id.*

54. See generally Frederic Speer, *Tobacco and the Nonsmoker: A Study of Subjective Symptoms*, 16 ARCHIVES ENVTL. HEALTH 443 (1968).

55. *Id.* at 443-44.

Speer concluded that an impressively large number of people complain of symptoms from tobacco smoke, both allergic and non-allergic individuals.⁵⁶ The symptoms are summarized in Figure 3 on the following pages.

Figure 3. Known Symptoms of Passive Smoking⁵⁷

| | |
|--|---|
| <p>Passive Smoking may produce:</p> <ul style="list-style-type: none"> • Itching, tearing, burning, reddening, swelling of eyes, blinking—increasing with exposure; • Sneezing, blocking, running, itching of nose; • Coughing, wheezing, sore throat—respiratory discomfort might begin within a half hour, persist for 8 to 12 hours; • Headache, nausea and dizziness; • Choking sensation; • Irritation of mucous membranes of nose, throat, lung; • Respiratory disease exacerbation; • Respiratory symptoms, depressed pulmonary function. | <div data-bbox="909 640 1242 913" data-label="Image"> </div> <p data-bbox="909 997 1234 1207">Passive smoking is the inhalation of secondhand or environmental tobacco smoke (SHS)-polluted air. SHS is the toxic waste of tobacco consumption.</p> |
|--|---|

56. *Id.* at 446.

57. *Id.* at 443-46; Herbert Savel, *Clinical Hypersensitivity to Cigarette Smoke*, 21 ARCHIVES ENVTL. HEALTH 146 (1970).

| | |
|--|--|
| <p>Prevalence of SHS symptoms reported by 10,000 nonsmoking office workers, exposed 8 hours per day⁵⁸</p> <ul style="list-style-type: none"> • Difficulty working near a smoker (50%) • Forced to move away from desks (36%) • Bothered by SHS (33%) • Eye irritation (48%) • Nasal irritation (35%) • Aggravation of pulmonary disease (25%) | <p>Odor acceptability⁵⁹ ~ $1\mu\text{g}/\text{m}^3$ SHS-RSP; irritation threshold⁶⁰: $4.4\mu\text{g}/\text{m}^3$</p> |
|--|--|

Savel reported on 8 nonsmokers with clinical hypersensitivity to cigarette smoke; all 8 individuals were allergic nonsmokers, and all developed immediate upper respiratory discomfort after being exposed to cigarette smoke.⁶¹ Savel also reported a number of adverse symptoms, including eye and nose irritation, choking sensation, and both sinus and migraine headaches.⁶² Savel concluded that an allergy to cigarette smoke might produce clinically distressing upper respiratory tract symptoms in nonsmokers with allergic backgrounds, exert a depressant effect on the antibacterial defense mechanisms of the lung, exert a toxic effect on lymphocytes, and play a role in the pathogenesis of pulmonary distress.⁶³

58. Cary B. Barad, *Smoking on the Job: The Controversy Heats Up*, 48 OCCUPATIONAL HEALTH & SAFETY 21, 21-24 (1979).

59. Junker et al., *supra* note 35, at 1050.

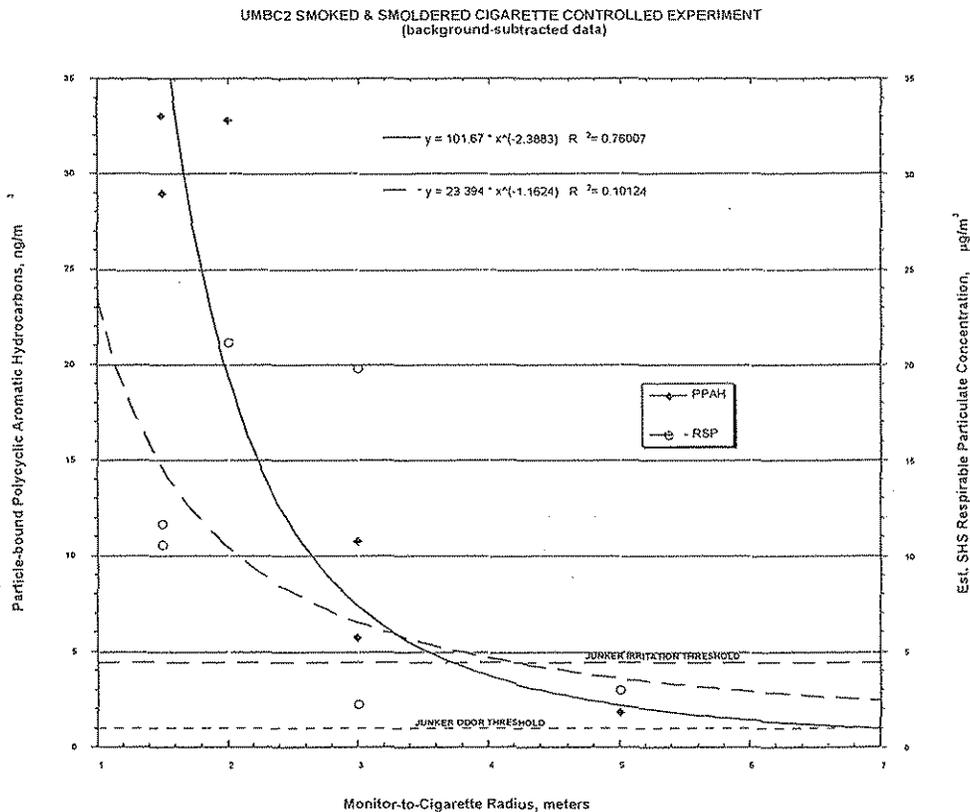
60. *Id.*

61. Savel, *supra* note 57, at 146.

62. *Id.* at 147.

63. *Id.*

Figure 4. Smoked and Smoldered Cigarettes Showing the Cancer-Causing Polycyclic Aromatic Hydrocarbons (PAH) and SHS-RSP Data⁶⁴



The Junker (2001) irritation index shows the median threshold of SHS irritation for healthy nonsmokers.⁶⁵ Figure 4 illustrates the proximity effect in an outdoor plaza where students congregated in widely scattered tables on a college campus in Baltimore, Maryland.⁶⁶ The proximity effect was studied in a controlled experiment involving 10 college student smokers placed in rings of increasing diameter around 2 air quality monitors so

64. Repace, *supra* note 2.

65. Junker et al., *supra* note 35, at 1045.

66. Repace, *supra* note 2, at 6.

that no matter which way the wind blew, the monitors were always downwind of 1 smoker.⁶⁷ Relative to a ring radius of 4 meters (13 feet), where the level is 4 units high, the SHS-RSP exposure concentration at 1.5 meters (5 feet) is 13 units high for particles and 35 units high for PPAH carcinogens, as shown in Figure 4. In this experiment, the proximity effect near a ring-shaped area source increases SHS by a factor of 3 for particles and a factor of nearly 9 for carcinogens.

B. Asthmatic Effects

There is very good evidence that environmental tobacco smoke has direct irritant effects in the case of passive smoking by children under the age of 4; this effect appears to diminish in children aged over 4 years.⁶⁸ There is also good evidence that SHS can trigger bronchospasm in some adults with asthma.⁶⁹ SHS is associated with wheezing symptoms, medical therapy for wheezing, and wheezing-related emergency department visits by children.⁷⁰ A causal association exists between SHS and increased episodes and aggravation of symptoms of children with asthma, affecting 200,000 to 1,000,000 children under the age of 18.⁷¹ More than 14 million Americans reported having asthma in 2000, according to the National Center for Health Statistics.⁷² "Asthma is a leading contributor of limited activity and absences from work and school; it also causes 5000 deaths each year in the U.S. The National Heart, Lung, and Blood Institute estimates that the annual direct and indirect costs of asthma were \$12.7 billion in 2000."⁷³ By 2004, 7.1% (20.5 million) of people currently had asthma.⁷⁴ Among children under age 18 years, 8.5% (6.2 million) currently had asthma. Among adults 18 years and over, 6.7% (14.4 million) had asthma.⁷⁵ According to one report, teenage children exposed to

67. *Id.*

68. Repace, *supra* note 4.

69. *Id.*

70. *Id.*

71. *Id.*

72. Nat'l Heart, Lung, and Blood Inst., Asthma: Frequently Asked Questions, http://www.nhlbi.nih.gov/health/prof/lung/asthma/surveil_faq.htm.

73. Press Release, Nat'l Insts. of Health, NHLBI Funds Centers for Reducing Asthma Disparities (Oct. 30, 2002), available at <http://www.nhlbi.nih.gov/new/press/02-10-30a.htm>.

74. Nat'l Heart, Lung, and Blood Inst., *supra* note 72.

75. *Id.*

tobacco smoke in cars had an even higher risk of persistent wheeze than if they had been exposed at home.⁷⁶

C. *Health Risks from Exposure to SHS and OTS*

Repeated exposure to a carcinogen, such as air pollution from SHS and OTS, over a lifetime increases the risk of cancer.⁷⁷ The U.S. Surgeon General has stated that there is “no risk free exposure to SHS”—chronic risk is proportional to average exposure concentration times duration of exposure times the dose-response relationship.⁷⁸ Federal regulatory agencies compute risk over a 70-year standard lifetime (e.g., EPA) or over a working lifetime of 45 years (e.g., OSHA).⁷⁹ Typical risks for lung cancer from passive smoking are in the range of 1 to 10 deaths per 1000 persons per lifetime.⁸⁰ Typical chronic heart disease risks are 10 times higher.⁸¹ “De minimis” or acceptable risk is typically 1 death per 1,000,000 persons per lifetime.⁸² OSHA’s “significant risk of material impairment of health” is 1 death or irreversible serious health effect per 1000 workers per 45 year working lifetime.⁸³ “De manifestis” or obvious risk is 5 deaths or irreversible adverse health effect per 10,000 people at risk.⁸⁴ For workers indoors, it would take tornado-like rates of ventilation or air cleaning to reduce risks from chronic workplace exposure to de minimis levels; ergo, there is no risk-free chronic exposure to SHS. This is also likely to be true for waiters in outdoor cafés. Moreover, indoors or outdoors, for persons who have serious asthma, chronic obstructive

76. Peter D. Sly et al., *Exposure to Environmental Tobacco Smoke in Cars Increases the Risk of Persistent Wheeze in Adolescents*, 186 MED. J. AUSTRAL. 322, 322 (2007).

77. See RISK ASSESSMENT FORUM, U.S. ENVTL. PROT. AGENCY, GUIDELINES FOR CARCINOGEN RISK ASSESSMENT 5-1 to -7 (2005) (discussing risk characterization as bringing together hazard, dose-response, and exposure analysis).

78. Americans for Nonsmokers’ Rights, *Second Hand Smoke: The Science* 1 (Nov. 2006), available at <http://www.no-smoke.org/pdf/SHS.pdf>.

79. See JOHN R. FOWLE III & KERRY L. DEARFIELD, U.S. ENVTL. PROT. AGENCY, RISK CHARACTERIZATION HANDBOOK 154 (2000), available at <http://www.epa.gov/Osa/spc/pdfs/rchandbk.pdf> (EPA); James L. Repace et al., *Air Nicotine and Saliva Cotinine as Indicators of Workplace Passive Smoking Exposure and Risk*, 18 RISK ANALYSIS 71, 78 (1998) (OSHA).

80. See James L. Repace et al., *A Quantitative Estimate of Nonsmokers’ Lung Cancer Risk from Passive Smoking*, 11 ENV’T INT’L 3, 6-9 (1985).

81. Repace et al., *supra* note 79, at 79.

82. Curtis C. Travis et al., *Cancer Risk Management: A Review of 132 Federal Regulatory Decisions*, 21 ENVTL. SCI. & TECH. 415, 418 (1987).

83. Repace et al., *supra* note 79, at 79.

84. Travis et al., *supra* note 82, at 418.

respiratory disease, or heart disease, even brief exposures to SHS could land them in the emergency room or worse. It is generally these patients who died in the notorious outdoor smog episodes in the Meuse Valley in Belgium in 1930, Donora, Pennsylvania in 1948, and London in 1952, which eventually led to stringent regulation of outdoor air pollution.⁸⁵

Arguments against banning smoking in certain outdoor public venues were advanced by Professor Simon Chapman in his presentation at the Tobacco Control Legal Consortium Symposium on the Limits of Tobacco Control Regulation.

Our focus in this symposium on whether policy and advocacy for the regulation of SHS might sometimes go "too far." [Where] "going too far" in SHS policy means efforts premised on reducing harm to others, which ban smoking in outdoor settings such as ships' decks, parks, golf courses, beaches, outdoor parking lots, hospital gardens and streets. It is also the introduction of misguided policies allowing employers to refuse to hire smokers, including those who obey proscriptions on smoking indoors while at work. Many people are comforted by the smell of camp and log fires, even seeking out such exposures. But the same people will sometimes become outraged by the occasional, fleeting exposure to tobacco smoke. While nearly identical in terms of their noxious content, both forms of smoke have entirely different *meanings*. If radically different concerns about inhaling essentially the same zoo of noxious particles was all that mattered here, we would have to conclude that many people can be frankly irrational. But outrage about some forms of smoke and open acceptance of others is very explicable to sociologists of risk perception. Among the many key determinants of meaning and outrage are whether a noxious agent is seen as voluntary or coerced; natural or artificial; and whether the risk has been amplified by lots of media attention. We don't read much about the dangers of inhaling campfire smoke, smoke from incense or candles or cooking, but we read a lot about the dangers of secondhand cigarette smoke. I emphasize that I am very supportive of preventing smoking in crowded, confined outdoor

85. WILLIAMSON, *supra* note 46. See also STEPHEN T. HOLGATE ET AL., AIR POLLUTION & HEALTH (1999).

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settings such as sports stadia, in most outdoor dining sections of (particularly small) restaurants and in unblocking the entrances to buildings by having smokers move further away.⁸⁶

My response to Professor Chapman's arguments follows: We agree completely on the principle of banning smoking in outdoor cafés and sports stadia. However, I disagree that because campfire smoke and smoke from incense, candles, or cooking have not (yet) received the same level of notoriety that SHS has (largely because they have not been researched until recently), that they do not pose both acute and chronic health hazards resulting from the toxicity of fine particles.⁸⁷ In fact, smoke from any source in places where people live, work, or congregate is going to pose a nuisance to many and an acute health hazard to some. Smoke from all of these sources is the product of incomplete combustion and is toxic to humans. As with indoor smoking, if enough persons complain about outdoor smoking, local governments will be moved to protect the public, as they have done for decades with factory smoke and auto exhaust, and are scientifically justified in doing so for OTS on the basis of the exposure analysis discussed herein.

IV. CONCLUSIONS AND POLICY IMPLICATIONS

In 1946, a city ordinance urged by concerned citizens was passed in Pittsburgh, Pennsylvania, despite the absence at that time of any scientific evidence of the health effects of outdoor air pollution levels on the population. Thus, early public air pollution policy was formulated on the basis of intuition. Similarly, a wave of restrictions on outdoor smoking has been passed in several U.S. states, despite the absence of health effects studies on OTS and the paucity of data on OTS concentrations. However, data is accumulating in support of the public's intuitive response to OTS. Recent field studies plus controlled experiments demonstrate that, regardless of which way the wind blows, individuals in an outdoor

86. Simon Chapman, Professor of Public Health at the University of Sydney, Austl., Presentation at the Tobacco Control Legal Consortium Symposium on the Limits of Tobacco Control Regulation at William Mitchell College of Law (Oct. 23, 2007).

87. See generally Wayne R. Ott & Hans C. Siegmann, *Using Multiple Continuous Fine Particle Monitors to Characterize Tobacco, Incense, Candle, Cooking, Wood Burning, and Vehicular Sources in Indoor, Outdoor, and In-Transit Settings*, 40 *ATMOSPHERIC ENV'T* 821 (2006).

café, transiting through a building doorway, on a public street, sidewalk or bus stop, even on the open deck of a cruise ship at sea, or otherwise surrounded by a group of smokers, are always downwind from the source and are thus subject to being enveloped in a cloud of obnoxious, irritating, asthmagenic, carcinogenic, and atherogenic fumes.

These studies also show that under a variety of conditions, levels of OTS can be as high as indoor levels of SHS. Smoking in the small volume of cars leads to much higher levels of tobacco smoke air pollution than in other enclosed environments. Individuals who suffer from asthma, especially children, are at acute risk from OTS. Healthy persons are subject to annoyance and increased risk of developing chronic disease from repeated OTS exposure over a lifetime. This new data confirms public intuition, demonstrating that public demand for smoke-free outdoor spaces is not "going too far," and justifies policies banning smoking in outdoor locations, in vehicles, where people congregatc in public, or where workers are placed at risk, such as outdoor cafés.

WHOSE LIFE IS IT ANYWAY? EMPLOYER CONTROL OF OFF-DUTY SMOKING AND INDIVIDUAL AUTONOMY

Lewis Maltby[†]

“Your right to swing your fist stops at the end of my nose.”¹

Henry Ford had his own private police force.² If you worked for Ford Motor Company, its officers could show up at your door at any hour of the day or night and search your entire home.³ If they found anything Henry Ford disapproved of, you were fired.⁴ If you were drinking, you were fired.⁵ If there was someone upstairs at night that you were not married to, you were fired.⁶ If you were playing cards for money, you were fired.⁷ If you had books Ford did not like, you were fired.⁸

Today, we know that this was wrong. The fact that Henry Ford signed people's paychecks did not give him the right to control their private lives.

But we are in danger of slipping back into this kind of world. Many employers are beginning to take control of employees' private lives in the name of reducing health care costs.⁹

† Lewis L. Maltby (J.D., University of Pennsylvania, 1972) is the founder and president of the National Workrights Institute. Maltby founded the National Workplace Rights Office of the American Civil Liberties Union in 1988 before recognizing the need for an independent organization to fight for human rights on the job. The National Workrights Institute was founded in 2000.

1. Attributed to Justice Oliver Wendell Holmes.

2. See HENRY FORD & SAMUEL CROWTHER, *MY LIFE AND WORK* 128-29 (1922). Ford employed as many as fifty investigators in his “social welfare department” who looked into the private lives of Ford Motor Company employees. *Id.* The Social Department was originally instituted to evaluate each employee's eligibility for a “prosperity-sharing” program. *Id.* at 129.

3. See KEITH SWARD, *THE LEGEND OF HENRY FORD* 59 (1948).

4. *Id.*

5. *Id.*

6. *Id.*

7. *Id.*

8. *Id.*

9. See generally Jeremy W. Peters, *Company's Smoking Ban Means Off-Hours, Too*, N.Y. TIMES, Feb. 8, 2005, at C5.

The most common example of this trend involves employers who prohibit employees from smoking in their private lives.¹⁰ The Administrative Management Society has estimated that six percent of all employers in the United States discriminate against off-duty smokers.¹¹ These employers argue that smokers incur higher medical costs that adversely affect profitability.¹² This is clearly correct. While the magnitude by which smokers' medical costs exceed those of other employees has not been precisely measured, nor the amount of these higher costs that fall on a particular employer, there is no question that smokers cost their employers more money for medical care.¹³

But smoking is not the only behavior that increases medical costs. Alcohol isn't good for you.¹⁴ Neither is junk food, red meat, too much coffee, lack of exercise, or lack of sleep.¹⁵ Many forms of recreation have medical risks, including skiing, scuba diving, and riding motorcycles. Getting to work by bicycle may be good exercise, but it increases the risk of being hurt in a traffic accident. Even your sex life has health care cost implications. People with multiple sexual partners have a greater risk of acquiring STDs than those who are monogamous.¹⁶ If it is acceptable for employers to

10. See, e.g., Peters, *supra* note 9.

11. NAT'L WORKRIGHTS INST., LIFESTYLE DISCRIMINATION: EMPLOYER CONTROL OF LEGAL OFF-DUTY EMPLOYEE ACTIVITIES 2, http://www.workrights.org/issue_life_style/ldbrieff2.pdf [hereinafter NWI ON LIFESTYLE DISCRIMINATION].

12. In 2002, the Centers for Disease Control and Prevention estimated that, on average, each adult smoker in the United States cost their employer \$3391 in additional health care and productivity losses annually. ANNUAL SMOKING-ATTRIBUTABLE MORTALITY, YEARS OF POTENTIAL LIFE LOST, AND ECONOMIC COSTS—UNITED STATES, 1995–1999, Apr. 12, 2002, <http://www.cdc.gov/mmwr/preview/mmwrhtml/mm5114a2.htm> [hereinafter CDC Report].

13. See *id.* The CDC, along with other individuals and organizations, has estimated the costs of smoking to employers. *Id.* See also AM. CANCER SOC'Y, SMOKING IN THE WORKPLACE COSTS YOU MONEY, http://www.cancer.org/downloads/COM/Smoking_in_the_Workplace_Costs_You_Money.pdf. However, all of these estimates have methodological problems that are beyond the scope of this article.

14. A recent study by the National Institute of Health found that how much and how often people consume alcohol independently influences the risk of death from a number of causes. Nat'l Inst. on Alcohol Abuse and Alcoholism, *Quantity and Frequency of Drinking Influence Mortality Risk*, <http://www.niaaa.nih.gov/NewsEvents/NewsReleases/mortalityrisk.htm>.

15. See, e.g., Rob Stein, *Scientists Finding Out What Losing Sleep Does to a Body*, WASH. POST, Oct. 9, 2005, at A01, available at <http://www.washingtonpost.com/wp-dyn/content/article/2005/10/08/AR2005100801405.html>.

16. The CDC states that "[t]he most reliable way to avoid transmission of STDs is to abstain from sex or to be in a long-term, mutually monogamous

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ban off-duty smoking because it increases costs, it is equally acceptable for employers to control all of these other types of behavior. The more we learn about the relationships between behavior and health, the more we realize that everything we do in our private lives affects our health. If employers are permitted to control private behavior when it is related to health, virtually every aspect of our private lives is subject to employer control.

Some people argue this isn't really a slippery slope—employers wouldn't try to control other aspects of people's private lives, only smoking.¹⁷ These people don't understand business. Employers don't ban off-duty smoking because they are anti-smoking; they ban off-duty smoking to increase the bottom line. To an employer, a dollar saved by forcing an employee to give up junk food and lose weight is just as valuable as a dollar saved by forcing an employee to quit smoking. Recent studies from the Centers for Disease Control show that obesity is rapidly overtaking smoking as the leading cause of preventable death in the United States.¹⁸ Cost-conscious employers will soon have more incentive to regulate diet and exercise than smoking.

In fact, some employers have banned other forms of private behavior. Multi-Developers, a real estate development company, prohibits employees from skiing, riding a motorcycle, or engaging in any other risky hobby.¹⁹ The Best Lock Corporation, in Indiana,

relationship with an uninfected partner." Ctrs. for Disease Control & Prevention, *Sexually Transmitted Diseases; Treatment Guidelines: 2006; Clinical Prevention Guidance*, <http://www.cdc.gov/std/treatment/2006/clinical.htm#clinical1>.

17. See Micah Berman & Rob Crane, *Mandating a Tobacco-Free Workforce; A Convergence of Business and Public Health Interests*, 34 WM. MITCHELL L. REV 1653, 1672 (2008) (arguing that tobacco use is distinguishable from other potentially hazardous activities and that "slippery slope concerns are entirely speculative"); Michele L. Tyler, *Blowing Smoke: Do Smokers Have a Right? Limiting the Privacy Rights of Cigarette Smokers*, 86 GEO. L.J. 783, 794-95 (1998) (discussing the slippery slope doctrine and concluding that a smoking ban is unlikely to result in further invasions of other privacy rights because of economic factors); Christopher Valleau, *If You're Smoking, You're Fired: How Tobacco Could Be Dangerous To More Than Just Your Health*, 10 DEPAUL J. HEALTH CARE L. 457, 490-92 (2007) (concluding that the slippery slope doctrine fails because smoking is inherently different than other lifestyle behaviors).

18. Ali H. Mokdad et al., *Actual Causes of Death in the United States, 2000*, 291 J. AM. MED. ASS'N 1238-45 (Mar. 10, 2004), available at <http://www.csdp.org/research/1238.pdf>.

19. Zachary Schiller et al., *If You Light Up on Sunday, Don't Come in on Monday*, BUS. WK., Aug. 26, 1991, at 68. Multi-Developers, Inc.'s policy prohibits employees from engaging in "hazardous activities and pursuits including such things as skydiving, riding motorcycles, piloting private aircraft, mountain climbing, motor

prohibits the consumption of alcohol at any time.²⁰ Best Lock fired Daniel Winn after eight years of good performance because Mr. Winn went out for a few beers with some friends after work.²¹ The city of Athens, Georgia, required all municipal employees to take cholesterol tests—if your cholesterol was too high, you were fired.²²

Other employers have gone further. Lynne Gobbell lost her job at an Alabama insulation company because she had a “Kerry for President” bumper sticker on her car.²³ Glen Hiller, from West Virginia, was fired because his boss didn’t like a question he asked a candidate at a political rally.²⁴ Laurel Allen, from New York, was fired by Wal-Mart because it disapproved of her boyfriend.²⁵ Kimberly Turic, from Michigan, was fired for telling her supervisor that she was considering having an abortion.²⁶

Virtually all of these terminations were legal. Under American law, an employer has the right to fire an employee at any time, for any reason, unless there is a statute prohibiting a specific reason for termination.²⁷ A variety of federal and state laws prohibit discrimination based on race, age, gender, religion, disability, and (in some jurisdictions) sexual orientation.²⁸ However, in other

vehicle racing, etc.” *Id.* To the author’s knowledge, this is still the policy at Multi-Developers, Inc.

20. Best Lock Corp. v. Review Bd., 572 N.E.2d 520, 521 (Ind. Ct. App. 1991). Best Lock Corporation’s tobacco, alcohol, and drug use rule (TAD Rule) states: “The use of tobacco, the use of alcohol as a beverage, or the use of drugs by an employee shall not be condoned. . . . Any employee violating this policy, at work or away from the plant, will be summarily terminated.” *Id.*

21. See *id.* (Winn admitted under oath, in a proceeding involving the termination of his brother from Best Lock Corporation, that he had consumed alcohol on several social occasions while employed at Best Lock Corporation).

22. Schiller et al., *supra* note 19. The city of Athens, Georgia, for a short period of time, required job applicants to submit to a cholesterol test. *Id.* Applicants whose cholesterol levels ranked in the top 20% of all applicants were eliminated from consideration for employment. *Id.* Local protests led to elimination of the policy. *Id.*

23. Paola Singer, *Fired Over Kerry Sticker; Her Loss Is Their Gain*, NEWSDAY, Sept. 17, 2004, at A33.

24. Jessica Valdez, *Frederick Company Fires Employee Who Taunted Bush*, WASH. POST, Aug. 22, 2004, at C06.

25. Dottie Enrico, *When Office Romance Collides With the Corporate Culture*, NEWSDAY, Aug. 1, 1993, at 70. Allen was dating a fellow employee while she was still married to her husband, although they were separated. *Id.*

26. *Pregnancy Bias Case Costs a Hotel \$89,000*, CHI. TRIB., Mar. 16, 1994, at M3. Turic later won a lawsuit for wrongful termination and was awarded \$89,000. *Id.*

27. See generally 27 AM. JUR. 2D *Employment Relationship* § 10 (2008).

28. See, e.g., 42 U.S.C. § 2000e-2 (2000) (making it illegal for an employer to discriminate on the basis of race, color, religion, sex, or national origin); MINN.

than a handful of states,²⁹ there is no law against being fired because your employer disapproves of your private life.

Employment decisions should be based on how well you do your job, not on your private life. Most successful companies operate on this principle. There is no reason all companies shouldn't follow it.

Where does this leave employers who don't want to absorb the additional health care costs created by employee smoking? One option is for employers to require a higher personal contribution to the health care plan for employees who smoke.³⁰ There is nothing wrong with this in principle. We may all have the right to conduct our private lives as we choose, but we do not have the right to make other people take responsibility for the consequences of our behavior. If people choose to smoke, there is nothing unfair about requiring them to take financial responsibility for the health care costs this behavior creates. Employers could determine the amount by which health care costs of smokers exceed those of non-smokers and require smoking employees to contribute this amount personally.

Employers that choose this policy need to ensure that their surcharge is actuarially correct. While there is no question that smokers have higher health care costs, the actual cost differential is not entirely clear.³¹ Moreover, most of the published estimates come from advocates and not from neutral experts.³² Employers need to check their sources and consult with independent actuaries before determining the amount of the surcharge.

STAT. § 363A.08 subdiv. 2 (Supp. 2007) (listing sexual orientation as a class protected from employment discrimination).

29. New York, Colorado, North Dakota, and Montana offer broad protection of legal off-duty behavior. See *NWI ON LIFESTYLE DISCRIMINATION*, *supra* note 11, at 11-13 (citing 2004 STATE BY STATE GUIDE TO HUMAN RESOURCES LAW (John F. Buckley & Ronald M. Green eds., 2004)).

30. See Peters, *supra* note 9 (describing the \$50 fee charged by one employer to all smokers to cover increased healthcare costs associated with smoking-related illnesses).

31. See CDC Report, *supra* note 12; see also KATE FITCH ET AL., AMERICAN LEGACY FOUNDATION, COVERING SMOKING CESSATION AS A HEALTH BENEFIT: A CASE FOR EMPLOYERS 11 (2007), http://www.americanlegacy.org/PDFPublications/Milliman_report_ALF_-_3.15.07.pdf (estimating that employees who suffer strokes or develop coronary artery disease can cost their employers upwards of \$65,000 per year in medical expenses).

32. Two of the most active of these advocates are The American Cancer Society, <http://www.cancer.org>, and The American Legacy Foundation, <http://www.americanlegacy.org>.

To be completely fair, employers should also analyze the amount of smokers' higher health care charges that the company will pay. For example, one of the largest components of smokers' health care costs is cancer treatment.³³ In many cases, smoking-related cancers occur later in life, after the person has retired, with the majority of that person's medical costs paid by Medicare.³⁴ Such factors should be included in calculating an employee's surcharge.

Even if actuarially correct, however, there are other concerns about surcharges. To be fair, surcharges should apply to all health-related off-duty behavior. Some non-smokers have higher health risks than some smokers. Someone who eats lunch at McDonald's seven days a week, never exercises, and drinks a six-pack of beer every day probably has greater health risks than a light smoker who does everything else right. Since the justification for the surcharge is the higher cost that the employee's behavior creates, in such cases the non-smoker should pay a higher surcharge. To be fair, a surcharge program needs to contain penalties for poor diet, lack of exercise, risky hobbies, risky sex, and anything else that affects health. This may not be unfair from the standpoint of personal responsibility, but from the perspective of individual autonomy it is "Henry Ford-light."

There are also privacy concerns implicated in such surcharges. For an employer to establish a comprehensive surcharge program, it needs comprehensive knowledge of its employees' private lives. It needs to know how much employees drink, what they eat, what they do in their spare time, and how many sexual partners they have. Do we really want to reveal this information to our employers? Employers' poor historical record of maintaining the privacy of personal information increases the level of concern about surrendering our privacy to this degree.³⁵

33. See AM. CANCER SOC'Y, *CANCER FACTS & FIGURES 2008*, at 48-51, <http://www.cancer.org/downloads/STT/2008CAFFfinalsecured.pdf>.

34. See News Release, U.S. Dep't of Health & Human Servs., Medicare Will Help Beneficiaries Quit Smoking: New Proposed Coverage for Counseling as Medicare Shifts Focus to Prevention (Dec. 23, 2004), available at <http://www.hhs.gov/news/press/2004pres/20041223a.html> (stating that "[i]n 1993, smoking cost the Medicare program about \$14.2 billion, or approximately 10 percent of Medicare's total budget").

35. See, e.g., RITA TEHAN, CONG. RESEARCH SERV. REPORT FOR CONG., *DATA SECURITY BREACHES: CONTEXT AND INCIDENT SUMMARIES* tbl. 1 (May 7, 2007), available at <http://ftp.fas.org/spp/crs/misc/RL33199.pdf>.

Enforcement of surcharge programs also raises privacy issues. Many employees will misrepresent their private behavior in order to avoid penalties. To protect the integrity of the program, employers will need programs to detect such deception. One method is urine testing. Cotinine, the most common metabolite of nicotine, can be detected in smokers' urine, just as THC metabolites are detected in the urine of marijuana users.³⁶ Before initiating such a program, however, employers need to consider how employees will react. While Americans have generally become accustomed to one-time pre-employment urine tests, random testing of incumbent employees is relatively rare, in part because of employee resistance. Such programs could also run afoul of the Americans with Disabilities Act's prohibition of medical testing that is not job-related.³⁷

Another method is to encourage employees who know another employee is secretly smoking off-duty (or secretly riding a motorcycle) to inform management. This approach, however, seems even more likely to cause conflict. What happens to the working relationship between two people when one has turned the other in for smoking or drinking off-duty?

In short, surcharge programs may well create more problems than their cost savings justify.

It might be far more productive for employers to approach employee medical costs from a helpful perspective rather than a punitive one. Very few of us are proud of our bad habits. Surveys repeatedly show that most smokers want to quit.³⁸ Millions of us make New Year's resolutions to eat less, go to the gym more often, and cut down on our drinking.³⁹ Employers could do a great deal

36. Found. for Blood Research, Important Patient Information About . . . Cotinine Testing, <http://www.fbr.org/publications/pamphlets/cotinine.html> (last visited Apr. 10, 2008).

37. See Americans with Disabilities Act, 42 U.S.C. § 12112 (d)(4)(A) (2000). This provision of the ADA states:

A covered entity shall not require a medical examination and shall not make inquiries of an employee as to whether such employee is an individual with a disability or as to the nature or severity of the disability, unless such examination or inquiry is shown to be job-related and consistent with business necessity.

Id.

38. See, e.g., Jonathan Lynch, *Survey Finds Most Smokers Want to Quit*, CNN.com, July 25, 2002, <http://archives.cnn.com/2002/HEALTH/07/25/cdc.smoking/index.html> (citing a CDC survey that found that 70% of the 32,374 smokers surveyed responded that they wanted to quit smoking).

39. See, e.g., RIS Media.com, *The Top New Year's Resolutions for 2008 and*

to help us follow through on these good intentions. For example, employers could pay for smoking cessation programs for employees who want to quit.⁴⁰ They could even offer a modest incentive for employees who are successful, such as an extra vacation day or a small amount of money. Such programs are highly cost-effective.⁴¹ The same approach could be equally effective in helping employees who want to lose weight. A more ambitious program would make medical personnel available for voluntary consultations with employees about how to improve their health. This type of program not only avoids the legal and morale problems of the punitive approach but would be perceived as an added benefit by employees.

The fact that so many employers are approaching this issue in a punitive fashion reflects that we have lost our way on smoking in the United States. Our goals should be:

1. Protecting non-smokers from second-hand smoke;
2. Keeping tobacco out of the hands of minors; and
3. Helping smokers who want to quit.

Our actual policy, however, has become eliminating smoking by any means necessary.

You can see this in our official national policy on smoking. The Healthy People Initiative, a program of the Federal Department of Health and Human Services, has a goal of cutting adult smoking in half by the year 2010.⁴² Not to protect non-

How to Keep Them (Dec. 20, 2007), <http://rismedia.com/wp/2007-12-19/the-top-new-years-resolutions-for-2008-and-how-to-keep-them/>.

40. See, e.g., Milt Freudenheim, *Seeking Savings, Employers Help Smokers Quit*, N.Y. TIMES, Oct. 26, 2007, at A1 (citing U.P.S. and Union Pacific Railroad as companies that offer smoking cessation programs).

41. See Free & Clear, Inc., *Reducing the Burden of Smoking on Employee Health and Productivity*, http://www.freeclear.com/case_for_cessation/library/studies/burden.aspx?nav_section=2 ("There is much evidence to support that paying for tobacco cessation treatment is the single, most cost-effective health insurance benefit for adults and is the benefit that has the greatest positive impact on health.") (citing NAT'L BUS. GROUP ON HEALTH, *REDUCING THE BURDEN OF SMOKING ON EMPLOYEE HEALTH AND PRODUCTIVITY*, VOL. 1, NO. 5 (2003), available at http://www.businessgrouphealth.org/pdfs/issuebrief_cphssmoking.pdf).

42. Healthy People 2010 Volume II, Tobacco Use, http://www.healthypeople.gov/Document/HTML/Volume2/27Tobacco.htm#_Toc489766214 (last visited Apr. 6, 2008).

smokers, not to help smokers who want to quit, but to eliminate smoking, period.

This mistake is not merely verbal; it shows in actions as well. Legislation has been enacted in most states prohibiting companies from terminating employees based on off-duty smoking.⁴³ Such laws do not expose employees to second-hand smoke—they simply protect peoples' right to behave as they want in their own home. Employers can still restrict or ban tobacco use on company property. Anti-smoking groups consistently and vigorously opposed the enactment of these laws.⁴⁴ When challenged, they claimed that such laws give undeserved special protection to smokers.⁴⁵ But when bills were introduced protecting all forms of legal off-duty conduct, the anti-smoking establishment opposed them too.⁴⁶ The only policy consistent with the actions of the anti-smoking establishment is prohibition.

The prohibitionist mentality is not confined to tobacco regulation. Kelly Brownell of Yale University is one of the leading thinkers of the health community. She has proposed that the government create a special tax on junk food so that people will be encouraged to eat less of it.⁴⁷ According to Brownell, "the government needs to regulate food as it would a potentially dangerous drug."⁴⁸

43. Thirty states and the District of Columbia have lifestyle discrimination statutes that prohibit employers from firing employees for certain legal, private activities, including smoking. These states include: Arizona, California, Colorado, Connecticut, Illinois, Indiana, Kentucky, Louisiana, Maine, Minnesota, Mississippi, Missouri, Montana, Nevada, New Hampshire, New Jersey, New Mexico, New York, North Carolina, North Dakota, Oklahoma, Oregon, Rhode Island, South Carolina, South Dakota, Tennessee, Virginia, West Virginia, Wisconsin, and Wyoming. *NWI ON LIFESTYLE DISCRIMINATION*, *supra* note 11, at 11–13.

44. *See, e.g.*, SAMANTHA K. GRAFF, *TOBACCO CONTROL LEGAL CONSORTIUM, THERE IS NO CONSTITUTIONAL RIGHT TO SMOKE: 2008*, at 3 (2d ed. 2008) (arguing that off-duty restrictions on smoking are not precluded by an employee's right to privacy), available at <http://tobaccolawcenter.org/documents/constitutional-right.pdf>.

45. *See, e.g.*, Matthew Reilly, *Florio Urged to Provide Smokers Bias Protection*, *STAR-LEDGER* (Newark, N.J.), Jan. 4, 1991 (quoting Regina Carlson, executive director of the New Jersey Group Against Smoking Pollution (GASP), as stating that the passage of a bill that protects the privacy rights of smokers "would elevate drug addiction to civil rights status, along with race and sex").

46. *See, e.g.*, GRAFF, *supra* note 44, at 5 (stating that "smoker protection laws," including laws protecting all off-duty legal conduct, are a "barrier to a smoke-free agenda").

47. *Is it Time for a Fat Tax?*, *PSYCHOL. TODAY*, Sept.–Oct. 1997, at 16.

48. *Id.*

This is a serious error. Not only is it wrong for any of us to try to tell the rest of us how to live in our own homes, prohibition is unworkable in practice.

America has tried prohibition. In 1919 the Volstead Act prohibited the production or consumption of alcohol.⁴⁹ Alcohol production didn't stop; it merely went underground as legitimate companies were replaced by criminals like Al Capone.⁵⁰ Nor did Americans stop drinking. They just turned to illegal bars and homemade liquor. This required us to devote vast amounts of our criminal justice resources searching for underground bars and ordinary citizens brewing beer in their bathtubs. Only fourteen years later, Prohibition was universally rejected as a colossal failure and the law was repealed.⁵¹ One definition of insanity is to keep repeating the same behavior expecting different results.

A comprehensive proposal for an alternative national policy is beyond the scope of this paper, but a good first step would be to give the Food and Drug Administration (FDA) jurisdiction over tobacco products. Tobacco is by far the most dangerous consumer substance available in America. To fail to regulate it is indefensible. We regulate air conditioners, hammocks, and even coffee mugs in the interest of public safety.⁵² It is absurd not to regulate tobacco. Giving the FDA jurisdiction would also establish that tobacco is a legitimate consumer product that needs to be regulated, not prohibited.⁵³

We need to follow a similar regulatory policy regarding other forms of risky behavior; one that focuses on protecting other

49. Darryl K. Brown, *Democracy and Decriminalization*, 86 TEX. L. REV. 223, 238 (2007).

50. See, e.g., Chi. Historical Soc'y, History Files—Al Capone, <http://www.chicagohs.org/history/capone/cpn1a.html> (last visited Apr. 6, 2008).

51. See Brown, *supra* note 49, at 238.

52. See, e.g., 67 Fed. Reg. 36368-01 (Aug. 6, 2002) (to be codified at 10 C.F.R. pt. 430) (concerning the regulation of energy conservation standards for central air conditioners); Christopher D. Zalesky, *Pharmaceutical Marketing Practices: Balancing Public Health and Law Enforcement Interests; Moving Beyond Regulation-Through-Litigation*, 39 J. HEALTH L. 235, 252 (2006) (discussing the FDA's regulation of the advertisement of prescription drugs, including the imprinting of prescription drug names on items such as coffee mugs).

53. A bipartisan group of legislators proposed legislation in February 2007 that would give the FDA regulatory power over tobacco. See Christopher Lee, *New Push Grows for FDA Regulation of Tobacco*, WASH. POST, Feb. 17, 2007, at A08. The Bush administration and the FDA's skepticism of such a regulatory measure appear to have stalled the movement for now. See Marc Kaufman, *Decades-Long U.S. Decrease in Smoking Rates Levels Off*, WASH. POST, Nov. 9, 2007, at A07.

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people from the risks we choose to take.

**MANDATING A TOBACCO-FREE WORKFORCE: A
CONVERGENCE OF BUSINESS AND PUBLIC HEALTH
INTERESTS**

Micah Berman, J.D.[†] & Rob Crane, M.D.^{††}

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A growing number of corporate and public employers are mandating that either prospective or current employees refrain from tobacco use at all times, even off the job.¹ This developing trend has led to catchy headlines in the national press such as “You Smoke? You’re Fired!”² and “A Job or a Cigarette?”³ plus dozens of articles in local newspapers that detail the conflict between company executives determined to cut healthcare costs and “privacy advocates” (or, in some articles, “civil rights activists”).⁴ 60

[†] Micah Berman is executive director of the Tobacco Public Policy Center at Capital University Law School and a visiting assistant professor at Capital University Law School. He received his J.D. from Stanford Law School.

^{††} Rob Crane is a practicing physician and clinical assistant professor of family medicine at The Ohio State University College of Medicine. He is president and board chair of the Preventing Tobacco Addiction Foundation, and he received his M.D. from the Medical University of Ohio. The authors would like to thank Doug Blanke and the staff of the Tobacco Control Legal Consortium (TCLC) for inviting us to participate in the TCLC’s October 2007 symposium.

1. See, e.g., Tom Anderson, *Smoking Policy Sparks Debate over Wellness Programs*, EMP. BENEFIT NEWS, Apr. 1, 2005; Robert Rodriguez, *If There’s Smoke, You’re . . . Fired*, FRESNO BEE (Cal.), Oct. 14, 2007, at A1.

2. Stephanie Armour, *You Smoke? You’re Fired!*, USA TODAY, May 11, 2005, at 1A.

3. Jennifer Barrett Ozols, *A Job or a Cigarette?*, NEWSWEEK, Feb. 24, 2005, available at <http://www.newsweek.com/id/48517>.

4. *Id.* (“Civil-rights activists accused [Weyco] of discrimination [for

Minutes has run more than one episode about the employees who left Weyco, Inc., in Okemos, Michigan, rather than submit to a nicotine test.⁵

Even among tobacco control advocates, these “tobacco-free workforce” policies are somewhat controversial.⁶ Some have argued that such policies constitute unethical discrimination that tobacco control advocates should not countenance.⁷ Others, however, have heralded them, predicting that “[a] nonsmoker workforce will clearly become the norm of the future,” and noting that such policies, rather than injure smokers by infringing on their rights, help them by encouraging them to quit.⁸

Ultimately, however, it is businesses, not tobacco control advocates or the press, who will decide whether tobacco-free workforce policies make sense for them. We believe that these policies have substantial bottom-line implications for businesses. In fact, making the transition to a tobacco-free workforce may be an easy and cost-effective way for businesses to substantially reduce healthcare costs and increase productivity. Moreover, tobacco-free workforce policies have the potential to dramatically influence general smoking prevalence. This is a case where business interests appear to converge with public health interests.

dismissing employees that refused to submit to a nicotine test], arguing that [CEO Howard] Weyers was punishing workers for engaging in a legal activity on their own time.”). See also Joe Robinson, *Light Up, Lose Your Job*, L.A. TIMES, Feb. 19, 2006, at 3 (“Weyco and Scotts Miracle-Cro, based in Marysville, Ohio, are in the vanguard of a growing effort by businesses to brake soaring medical costs by regulating such unhealthy employee behavior as smoking, even if it’s done off-site. Privacy advocates and legal experts call it the opening round of a corporate takeover of personal lives, but company officials defend what they see as a reasonable business decision.”).

5. See *60 Minutes: Whose Life is it Anyway?* (CBS television broadcast Oct. 30, 2005); *60 Minutes: Whose Life is it Anyway?* (CBS television broadcast July 16, 2006).

6. Compare N. John Gray, *The Case for Smoker-Free Workplaces*, 14 TOBACCO CONTROL 143 (2005), with Simon Chapman, *The Smoker-Free Workplace: The Case Against*, 14 TOBACCO CONTROL 144 (2005). Others have argued that the tobacco control community should take no position on these policies, either for or against. See Ronald M. Davis, Letter to the Editor, *A Middle Ground: Don’t Condone or Condemn, But Let Employers Decide*, TOBACCO CONTROL, Mar. 27, 2005, available at <http://tobaccocontrol.bmj.com/cgi/eletters/14/2/144#310>.

7. Chapman, *supra* note 6, at 144 (“I am convinced that to extend such a policy [against hiring smokers] to the wider community—into employment situations where smoking was quite irrelevant—would be unethical.”).

8. Action on Smoking and Health, *Employment Policies Against Hiring Smokers*, available at <http://ash.org/papers/h220.htm> (last visited Apr. 27, 2008).

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I. BACKGROUND

Scotts Miracle-Gro Company, with \$2.9 billion in annual sales and more than 6000 employees, is the world's largest marketer of branded consumer products for lawn and garden care.⁹ In December 2005, Scotts, based in Marysville, Ohio, announced that it would no longer hire applicants who smoke.¹⁰ The company further announced that current employees who did not quit smoking by October 2006 could lose their jobs, even if they smoked only outside of work.¹¹ The company's CEO cited the rising cost of healthcare coverage and the desire to have a healthy workforce as reasons for the tobacco-free workforce policy.¹²

Scotts' approach in implementing a tobacco-free workforce policy is uncommon, but it is certainly not unique. This summer, the Cleveland Clinic, Ohio's second-largest employer with more than 36,000 employees, announced that it would no longer hire people who smoke.¹³

Likewise, Union Pacific Railroad and Alaska Airlines already refuse to hire smokers in states where it is legal to do so.¹⁴ In all of

9. Scotts Miracle-Gro, *Scotts Miracle-Gro Announces Full-Year Financial Results; Sales Improve 6 Percent Led by Strong International Performance*, PRNEWswire, Nov. 1, 2007, available at <http://www.prnewswire.com/cgi-bin/stories.pl?ACCT=104&STORY=/www/story/11-012007/0004695132&EDATE=>.

10. Shannon Mortland, *Smoke Screening; Employers Using Policies, Incentives to Keep Workers Smoke-Free*, CRAIN'S CLEVELAND BUS., Mar. 13, 2006, at 1.

11. Monique Curet & Ken Stammen, *Your Smokes or Your Job*, COLUMBUS DISPATCH, Dec. 9, 2005, at 1A. As of this writing, Scotts has not conducted any random nicotine tests or terminated any long-term employees for failure to quit smoking. It still maintains, however, that it may do so in the future. Scotts did fire an employee named Scott Rodrigues at one of its Massachusetts locations. Rodrigues was hired by Scotts but then promptly released when his initial nicotine screening came back positive. Sacha Pfeiffer, *Off-the-Job Smoker Sues Over Firing*, BOSTON GLOBE, Nov. 30, 2006, at A1. Rodrigues sued Scotts, alleging, among other things, wrongful termination and violations of Massachusetts' privacy and civil rights statutes. The case is pending in federal court in Boston. *Rodrigues v. Scotts Co. LLC*, 2008 WL 251971, at *1 (D. Mass.) (filed Jan. 22, 2007).

12. James Hagedorn, Letter to the Editor, *Scotts' Smoking Policy Will Make Employees and Company Healthier*, COLUMBUS DISPATCH, Dec. 17, 2005, at 9A. During the transition period, Scotts provided employees with free counseling, nicotine patches, cessation classes, and other support needed to help them quit. The tobacco-free workforce policy is part of Scotts' comprehensive plan to lower healthcare costs and improve the health of the company's workforce. The company also opened a five-million-dollar fitness and medical center at its Marysville headquarters. Curet & Stammen, *supra* note 11, at 1A.

13. Mary Vanac, *Clinic Will Not Hire Any Smokers*, CLEVELAND PLAIN DEALER, June 28, 2007, at A1.

14. Pfeiffer, *supra* note 11, at A1.

these cases, as at Scotts, the tobacco-free workforce policy is part of an overall workplace wellness program.¹⁵ Tobacco-free workforce policies are still far from the norm, however. According to a recent survey by the Society for Human Resource Management, only 3% of employers ask about smoking when hiring.¹⁶

II. EMPLOYER COSTS

The primary reason that employers have begun considering tobacco-free workforce policies is obvious. According to James Hagerdorn, the CEO of Scotts, "We're being as aggressive as the law will allow us, to keep our costs under control."¹⁷ Average healthcare insurance family coverage premium costs have increased by 78% since 2001, more than four times faster than wages or inflation.¹⁸ As a result, employers are increasingly exploring every possible option that could reduce healthcare costs, and tobacco use is an obvious target.

The costs of smoking for employers, individual smokers, their families, and the economy as a whole are enormous. According to the Centers for Disease Control and Prevention (CDC), cigarette smoking and tobacco use is the leading cause of preventable death in the United States, resulting in 438,000 premature deaths each year and an average of 12.6 years of potential life lost per smoker.¹⁹ Smoking causes almost one-fifth of all deaths in the United States, and "at least 6–8% of annual personal health expenditures . . . and quite possibly considerably more, is devoted to treating diseases

15. Union Pacific, for example, was awarded the 2005 C. Everett Koop National Health Award for its innovative worksite wellness programs. Union Pacific, *Union Pacific Receives 2005 C. Everett Koop National Health Award*, available at http://www.uprr.com/newsinfo/releases/human_resources/2005/1208_koop.html (last visited Apr. 27, 2008).

16. Sharon Linstedt, *A Smoker on Payroll Can Cost Firms up to \$3,800*, BUFFALO NEWS, Feb. 21, 2006, at B7.

17. Monique Curet, *Getting Tough on Health*, COLUMBUS DISPATCH, Dec. 9, 2005, at 1C.

18. Press Release, Kaiser Family Found., *Health Insurance Premiums Rise 6.1 Percent in 2007, Less Rapidly Than in Recent Years But Still Faster Than Wages and Inflation* (Sept. 11, 2007), available at <http://www.kff.org/insurance/ehbs091107nr.cfm>.

19. Ctrs. for Disease Control & Prevention, *Annual Smoking-Attributable Mortality, Years of Potential Life Lost, and Productivity Losses—United States, 1997–2001*, 54 MORBIDITY AND MORTALITY WKLY. REP. 625 (July 1, 2005), available at <http://www.cdc.gov/mmwr/preview/mmwrhtml/mm5425a1.htm> [hereinafter *Annual Smoking*].

caused by smoking.²⁰ In 2002, the CDC calculated costs associated with smoking and found that smoking-attributable personal healthcare medical expenditures totaled \$75.5 billion per year.²¹

In the same study, the CDC also calculated that productivity losses due to smoking were \$81.9 billion each year.²² The CDC's calculation of lost productivity costs, however, included only those attributed to premature mortality and did not consider employer-related costs such as absenteeism or diminished on-the-job productivity. Despite this imprecise calculation, it is clear that in comparison to non-smoking employees, employees who smoke are likely to impose considerable extra costs beyond medical care on the companies that employ them. These include daily productivity losses due to smoking breaks, extra time off work due to illness, increased workers' compensation utilization, and generally lower job-related productivity.²³ For example, despite the difficulty of calculating "presenteeism" (lower on-the-job productivity), studies have consistently demonstrated that employees who smoke are less productive than employees who do not. For example, one recent study reviewed more than 45,000 employee surveys from 147 U.S. employers.²⁴ It found that mean hours of lost productivity per year due to presenteeism were 76.5 hours for a smoker compared to 42.8 hours for a never smoker and 56.0 hours for a former smoker.²⁵ The excess presenteeism of 33.7 hours per year (for a smoker compared to a never smoker) equals approximately 2% of hours worked per year.²⁶ In addition, employers who allow smoking in or around their facilities or vehicles experience extra housekeeping, maintenance, ventilation, and fire insurance costs,

20. Kenneth E. Warner et al., *Medical Costs of Smoking in the United States: Estimates, Their Validity, and Their Implications*, 8 TOBACCO CONTROL 290, 299 (1999).

21. *Annual Smoking*, *supra* note 19.

22. *Id.*

23. See generally Harold S. Javitz et al., *Financial Burden of Tobacco Use: An Employer's Perspective*, 5 CLINICS IN OCCUPATIONAL & ENVTL. MED. 9 (2006).

24. William B. Bunn, III et al., *Effect of Smoking Status on Productivity Loss*, 48 J. OCCUPATIONAL & ENVTL. MED. 1099, 1100-01 (2006).

25. *Id.* at 1103 (tbl.2).

26. See also Wayne N. Burton et al., *The Association of Health Risks with On-the-Job Productivity*, 47 J. OCCUPATIONAL & ENVTL. MED. 769 (2005) (studying a cohort of employees at a Midwestern financial-services company and concluding that smoking was associated with a 2.8% reduction in on-the-job productivity).

as well as potential legal liability for secondhand-smoke exposure to non-smoking employees.²⁷

Beyond these costs are increased risks of occupational disease compensation for those employees who may already have exposure to other health risks such as asbestos, irritant gasses, or inhaled particulates.²⁸ Smoking employees are also more likely to suffer work-related disability and on-the-job accidents, injuries, and fatalities.²⁹ There also may be intangible costs associated with a smoker's personal presentation to customers or the public, especially in health-related industries.³⁰

The only potentially offsetting savings associated with smoking employees is diminished use of pension benefits in defined-benefits plans due to premature death.³¹ This "death benefit," however, is only relevant for employers who use defined-benefit pension plans—currently fewer than one in four private employers.³² It does not impact the larger number of employers who use defined contribution plans such as 401(k)s. Even for employers with defined-benefits plans, however, the amount of the "death benefit" is clearly dwarfed by the aggregate of other costs incurred.³³

27. *Id.* See also Chris Hallamore, Conference Board of Canada, *Smoking and the Bottom Line: Updating the Costs of Smoking in the Workplace* (2006); Leslie Zellers et al., *Legal Risks to Employers Who Allow Smoking in the Workplace*, 97 AM. J. PUB. HEALTH 1376 (2007).

28. Anthony J. DeLucia, *Tobacco Abuse and Its Treatment: Turning Old and New Issues into Opportunities for the Occupational Health Nurse*, 49 AM. ASS'N OF OCCUPATIONAL HEALTH NURSES J. 243, 247 (2001).

29. Javitz, *supra* note 23, at 18, 21. See generally Shirley Musich et al., *The Association of Health Risks with Workers' Compensation Costs*, 43 J. OCCUPATIONAL & ENVTL. MED. 534 (2001).

30. See, e.g., Sarah-Kate Templeton & Nina Goswami, *Job Vacant . . . But Not for Smokers*, SUNDAY TIMES (London), Oct. 3, 2004 at 12 (quoting the managing director of a website design company as saying, "People who smoke smell and that is not acceptable if they are dealing with clients. If someone has been smoking in their car and then they are introduced to a client, it is pretty unpleasant.").

31. See, e.g., Jon D. Hanson & Kyle D. Logue, *The Costs of Cigarettes: The Economic Case for Ex Post Incentive-Based Regulation*, 107 YALE L.J. 1163, 1180 (1998) (considering and rejecting the argument that smokers "produce a windfall social gain because of the savings resulting from cigarette-induced premature deaths—savings mostly in the form of smokers' unclaimed pension and nursing home entitlements").

32. Stephanie L. Costo, *Trends in Retirement Plan Coverage Over the Last Decade*, MONTHLY LAB. REV. 58, 58 (Feb. 2006), available at <http://www.bls.gov/opub/mlr/2006/02/art15full.pdf>.

33. See generally FRANK A. SLOAN ET AL., *THE PRICE OF SMOKING* 177 (2004) (finding that on average, each male smoker in a defined-benefit plan subsidized nonsmoker's pension plans by \$10,123, and each female smoker by \$383). The

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Given these healthcare and productivity costs, the smoking employee brings a substantial financial burden with him to work, even if he does not smoke while he is there.³⁴ The extra cost of a smoking employee obviously varies considerably across industries, occupations, and benefit packages. Our review of previously published studies, however, suggests that, on average, private employers incur excess costs exceeding \$4000 per year for each employee who smokes (in comparison to a non-smoking employee).³⁵ These results are summarized in Table 1 on the following page. The CEO of any business would be irresponsible to ignore costs of this magnitude.

study was based on self-reported data collected from more than 10,000 subjects for the Health and Retirement Study at the University of Michigan Institute for Social Research. Annualizing this subsidy over the average years of employment per smoker, the estimated average annual "death benefit" is approximately \$250 per employee who smokes. *Id.*

34. *But see* Chapman, *supra* note 6, at 144. Simon Chapman argues against tobacco-free workforce policies, stating that "while it is true that smokers as a class are less productive through their absences, many smokers do not take extra sick leave or smoking breaks." *Id.* This may be correct, but it is irrelevant. Employers take group characteristics and tendencies into account all the time, particularly when it is impossible or impractical to make case-by-case determinations. For example, some high school graduates may be better and more productive employees than most college graduates. But companies often require college graduation as a minimum job requirement, using college graduation as a proxy for employees that are likely to be more productive. In some sense, this may be unfair to particular individuals who would excel at a given job if given an opportunity, but it is generally considered to be a reasonable business practice.

35. Mehmet Munur, Micah Berman & Rob Crane, *The Cost of Smoking Employees* (manuscript at 2, on file with authors).

Table I - Total Annual Excess Cost of a Smoking Employee to a Private Employer³⁶

| Cost | Annual Amount | High Range | Low Range |
|-------------------------|-------------------|-------------------|-------------------|
| Excess Absenteeism | 489.26 | 545.71 | 169.36 |
| Presenteeism | 442.21 | 1768.84 | 442.21 |
| Smoking Breaks | 2916.713 | 2916.713 | 782.216 |
| Excess Healthcare Costs | 552.480 | 966.840 | Undetermined |
| Fire Insurance | 17.06 | 17.06 | 0 |
| Ashtray Costs | 25.72 | 25.72 | 0 |
| Ventilation | 89.59 | 89.59 | 0 |
| Pension Benefit | (254.33) | 0 | (254.33) |
| Total Costs | \$4278.703 | \$6360.473 | \$1139.456 |

Moreover, nicotine-addicted smokers cannot truly leave their addiction at the door when they enter the workplace. Their use of nicotine and its delivery system, the cigarette, has an ongoing impact on their personality and their behavior long after their last inhalation.³⁷ Chronic smokers are in fact drug addicts—even if their addiction is to a legal drug. A pack-a-day smoker takes approximately 200 “puffs” during each twenty-four hour period. Each inhalation drives a pulse dose of nicotine to the brain faster

36. *Id.* This table was assembled by reviewing previously published literature on these subjects and then adjusting the results to reflect the average annual cost for a private sector employee in the United States. For example, if a study found that smokers were on average absent from work 2.6 days more per year than non-smoking employees, we multiplied that number by the average hours worked per day (7.5, according to the Bureau of Labor Statistics) and the average hourly wage (\$25.09, according to the Employee Benefit Research Institute) to arrive at an average annual cost of \$489.26. The high and low range numbers reflect the variation in previous studies examining these issues. The “annual amount” is based on our best effort to average previous studies, in some cases adjusting for outlying results.

37. Regina de Cássia Rondina et al., *Psychological Characteristics Associated with Tobacco Smoking Behavior*, 33 J. BRASILEIRO DE PNEUMOLOGIA 592, 593 (2007) (“The [withdrawal] symptoms vary in intensity among people, and generally start within hours . . .”), available at http://www.scielo.br/pdf/jbpneu/v33n5/en_v33n5a16.pdf.

and more efficiently than even intravenous injection.³⁸ These potent spikes of nicotine to the central nervous system have a nearly instantaneous effect; however, their duration is brief, so that within thirty minutes after finishing the last inhalation, a smoker is already experiencing both physical and psychological withdrawal.³⁹ Manifestations of withdrawal include anxiety, restlessness, anger, irritability, diminished concentration, impaired task performance, sleep disturbance, drowsiness, and fatigue—and these manifestations build over time.⁴⁰ Much of what addicted smokers perceive as a relaxation effect from smoking is actually relief from their acute withdrawal symptoms. Now that the vast majority of workplaces are smoke-free, the repetitive, prolonged withdrawals that smoking employees suffer are likely to diminish both their productivity and affability while at work.⁴¹

This chronic repetitive withdrawal provides an argument beyond medical-care costs for requiring that employees not smoke on or off the job. Most human resource departments have experience in dealing with problems caused by employees who abuse illegal drugs, prescription drugs, and alcohol. Nicotine addiction, however, brings costs to the employer that dwarf the costs imposed by these other addictions.⁴²

III. ARE TOBACCO-FREE WORKPLACE POLICIES LEGAL?

Though many employers instinctively believe that they cannot consider tobacco use when making employment decisions, tobacco-free workplace policies are perfectly legal in at least twenty-one states. The other twenty-nine states have “smokers rights” laws that were passed at the urging of the tobacco industry (with assistance

38. J.E. Henningfield et al., *Higher Levels of Nicotine in Arterial Than in Venous Blood After Cigarette Smoking*, 33 *DRUG ALCOHOL DEPEND.* 23–29 (1993).

39. Neal L. Benowitz, *Pharmacology of Nicotine: Addiction and Therapeutics*, 36 *ANN. REV. OF PHARMACOLOGY & TOXICOLOGY* 597, 599–600 (1996).

40. John R. Hughes et al., *Symptoms of Tobacco Withdrawal: A Replication and Extension*, 48 *ARCHIVES GEN. PSYCHIATRY* 52 (1991). See also Rob Crane, *The Most Addictive Drug, the Most Deadly Substance: Smoking Cessation Tactics for the Busy Clinician*, 34 *PRIMARY CARE CLINICAL OFF. PRAC.* 117, 119 (2007); Steven A. Schroeder, *What to Do with the Patient Who Smokes*, 294 *J. AM. MED. ASS'N* 482, 483 (2005).

41. Cf. Joan Arehart-Treichel, *Smoking and Mental Illness: Which One's the Chicken?*, *PSYCHOL. NEWS*, Oct. 3, 2003, at 34 (reporting on study finding that employees with nicotine addiction were substantially more likely to suffer from anxiety and depressive disorders than other employees).

42. See generally Javitz, *supra* note 23, at 10.

from the American Civil Liberties Union), mostly between 1989 and 1993.⁴³ These laws may limit the ability of employers in those states to make hiring decisions based on whether employees use tobacco off the job.

Most states follow the “employment-at-will” doctrine, meaning that employers are generally free to set the standards for what type of employees they will hire, and they can terminate the employer-employee relationship at their discretion, absent contrary contractual terms.⁴⁴ However, the “employment-at-will” doctrine is limited by federal law, state and local laws, and, in the case of government employers, constitutional limitations.⁴⁵ Generally speaking, these laws and constitutional guarantees are intended to protect employees from discrimination on the basis of immutable characteristics (like gender, race, and nationality).⁴⁶

Contrary to the imprecise rhetoric sometimes used by opponents of tobacco-free workplace policies (or any other tobacco

43. See *infra* Table 2 (listing these laws). See Christopher Valleau, *If You're Smoking You're Fired: How Tobacco Could Be Dangerous to More than Just Your Health*, 10 DEPAUL J. HEALTH CARE L. 457, 484–92 (2007) (discussing the legislative campaign by the ACLU and the tobacco industry).

44. Richard A. Lord, *The At-Will Relationship in the 21st Century: A Consideration of Consideration*, 58 BAYLOR L. REV. 707, 707 (2006) (“The basic rule, applied by the vast majority of jurisdictions, concerning the at-will relationship—that either party may terminate the relationship at any time, for any reason or no reason, and with or without notice—has been the law in the United States for well over a century.”); *Mers v. Dispatch Printing Co.*, 483 N.E.2d 150, 153 (Ohio 1985) (“Unless otherwise agreed, either party to an oral employment-at-will agreement may terminate the employment relationship for any reason which is not contrary to law. This doctrine has been repeatedly followed by most jurisdictions, including Ohio, which has long recognized the right of employers to discharge employees at will.”).

45. See, e.g., Robert Sprague, *Fired for Blogging: Are There Legal Protections for Employees Who Blog?*, 9 U. PA. J. LAB. & EMP. L. 355, 362 (2007):

An employer can be civilly liable for wrongful discharge if an employee is dismissed in violation of an applicable employment-related statutory provision. The most obvious example of this type of wrongful discharge is when an employee is discharged (or forced to resign) in violation of Title VII of the Civil Rights Act of 1964, as well as any of its applicable state-law equivalents.

Id.

46. Cynthia L. Estlund, *The Workplace in a Racially Diverse Society: Preliminary Thoughts on the Role of Labor and Employment Law*, 1 U. PA. J. LAB. & EMP. L. 49, 78 (1998) (“Most of those [exceptions to the doctrine of at-will employment] can be characterized as either anti-retaliation doctrines, designed to protect socially valued speech or conduct, or anti-discrimination doctrines, designed to prohibit adverse treatment on the basis of traits—usually *immutable* traits—or group membership.”) (emphasis added).

control policy), there is no "right to smoke" granted by the U.S. Constitution or any state constitution, and no federal law has ever been held to prohibit making employment decisions on the basis of tobacco-use status.⁴⁷ The case law goes back more than twenty years to *Grusendorf v. Oklahoma City*, where a federal court of appeals upheld an Oklahoma City Fire Department policy of prohibiting smoking (on or off the job) by firefighting trainees.⁴⁸ The court wrote that since smoking is not a "fundamental right" entitled to special legal protection, the government need only have a rational basis for its policy.⁴⁹ It concluded that "[w]e need look no further for a legitimate purpose and rational connection than the Surgeon General's warning on the side of every box of cigarettes sold in this country that cigarette smoking is hazardous to health."⁵⁰ All courts that have subsequently considered this issue have arrived at the same conclusion.⁵¹

In the case of private employers, the constitutional questions do not apply, and the only issue is whether any federal, state, or local laws prohibit hiring policies that consider tobacco-use status. Plaintiffs have argued without success that federal law imposes such a limitation on employers. For example, courts have rejected the argument that people addicted to nicotine are "disabled" and therefore entitled to the anti-discrimination protections of the Americans with Disabilities Act.⁵²

47. See generally Samantha K. Graff, Tobacco Control Legal Consortium, *There is No Constitutional Right to Smoke* (2005), available at <http://www.wmitchell.edu/tobaccolaw/resources/No+Constitutional+Right+to+Smoke.pdf>.

48. *Grusendorf v. Oklahoma City*, 816 F.2d 539, 543 (10th Cir. 1987).

49. *Id.* at 541-43.

50. *Id.* at 543.

51. See, e.g., *City of N. Miami v. Kurtz*, 653 So. 2d 1025, 1028 (Fla. 1995) (upholding city's policy of refusing to hire anyone who had smoked in the past year); *Town of Plymouth v. Civil Serv. Comm'n*, 686 N.E.2d 188, 190 n.4 (Mass. 1997) (upholding town's decision to fire police officer for tobacco use). Courts have also rejected the claim that smokers are a "protected class" subject to heightened protection under the Equal Protection Clause of the Fourteenth Amendment. For example, in *NYC C.L.A.S.H., Inc. v. City of New York*, 315 F. Supp. 2d 461, 482 (S.D.N.Y. 2004), the court wrote that "[s]moking, as a discretionary or volitional act, does not merit heightened scrutiny because the Supreme Court has rejected the notion that a classification is suspect when entry into the class . . . is the product of voluntary action." (internal quotation marks omitted).

52. See, e.g., *Brashear v. Simms*, 138 F. Supp. 2d 693, 695 (D. Md. 2001) (writing that "common sense compels the conclusion that smoking, whether denominated as 'nicotine addiction' or not, is not a 'disability' within the meaning of the ADA."). Cf. *Stevens v. Inland Waters, Inc.*, 559 N.W.2d 61, 62 (Mich. Ct.

However, some states' "smokers' rights" laws may have an impact on the ability of employers to implement tobacco-free workforce policies.⁵³ These laws come in two forms: seventeen states prohibit employers from making employment decisions on the basis of off-duty tobacco use, while eleven states more generally prohibit employers from making employment decisions on the basis of off-duty lawful activity or off-duty use of legal consumable products.⁵⁴ One state, Virginia, restricts the ability of the state as an employer to make employment decisions based on off-duty tobacco use.⁵⁵ It does not appear that Virginia's statute applies to private employers.⁵⁶

Employers interested in implementing tobacco-free workforce policies should carefully review the laws of the states in which they operate. Even in the twenty-nine states with "smokers' rights" laws governing private employers, there may be legal latitude. For example, several state laws provide an exemption if the off-duty activity "adversely affect[s] [the employee's] ability to perform his job."⁵⁷ Clearly, employers have a solid foundation from which to argue that off-duty tobacco use has an impact on job performance. Other state laws "only offer protection to current employees and do not prevent an employer from discriminating against prospective employees on the basis of tobacco use."⁵⁸

Thus, whether or not a tobacco-free workforce is a viable option will depend upon state law and the specifics of an employer's situation. Employers should consult legal counsel when developing such a policy, but many are likely to find that there are no legal barriers to implementation.⁵⁹

App. 1996) (rejecting claim that firing employee for smoking constituted disability discrimination under the Michigan Handicappers' Civil Rights Act).

53. See *infra* Table 2 (listing these laws).

54. States with statutes specifically focused on off-duty tobacco use: New Jersey, Missouri (alcohol or tobacco), Oregon, Rhode Island, Oklahoma, New Mexico, New Hampshire, Mississippi, Maine, Louisiana, Kentucky, Indiana, Connecticut, West Virginia, South Dakota, South Carolina, Wyoming. States with statutes directed towards off-duty use of lawful products: Nevada, Illinois, Montana, California, North Dakota, North Carolina, New York, Minnesota, Colorado, Tennessee, Wisconsin. For citations, see Table 2.

55. VA. CODE ANN. § 2.2-2902 (2008).

56. *Id.*

57. NEV. REV. STAT. § 613.333(1)(b) (2006).

58. Valleau, *supra* note 43, at 479.

59. This article does not address potential testing for compliance with a tobacco-free workforce policy, which may raise separate legal issues. Any testing mechanism should be able to distinguish between active tobacco users and those

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It should also be noted that, in our opinion, the “smokers’ rights” laws in effect in twenty-nine states constitute poor public policy and should be reconsidered. To elevate the nation’s leading cause of preventable death to the status of a protected civil right is illogical, undermines health education messages, and trivializes the concept of civil rights.⁶⁰ Employment-discrimination laws should focus on protecting employees from invidious discrimination based on immutable characteristics or the exercise of constitutionally protected rights. They should not be used as tools to block employers from promoting healthy lifestyle choices.

who are using only nicotine replacement therapies (NRT) such as nicotine patches or nicotine gum. Nicotine use alone does not impose substantial health costs on employers, and employees should be encouraged to use NRT products in their efforts to keep from smoking—not punished for doing so.

60. After vetoing a proposed “smokers’ rights” bill in Arkansas, then-Governor Bill Clinton said:

While Americans plainly may smoke in many circumstances, smoking is an acquired behavior and giving the overwhelming evidence of the toll it takes every year in disease and death, it should not be accorded legal protection like Freedom of Speech, nor should smokers be a protected class like those who have been wrongly discriminated against because of race, sex, age or physical handicaps.

Michael Arbanas, *Smokers Rights’ Bill Vetoed*, ARK. DEMOCRAT-GAZETTE, Feb. 27, 1991 (page number not available). Virginia Governor L. Douglas Wilder vetoed a “smokers’ rights” bill in Virginia, stating that he was “offended by the suggestion that smokers deserve the same type of civil rights shield that had been used to fight prejudice against blacks and other minorities.” Valteau, *supra* note 43, at 487.

Table 2 – State Smoker Protection Laws⁶¹

| State | Year | Code Section |
|----------------------|------|---|
| Arizona | 1991 | ARIZ. REV. STAT. ANN. § 36-601.02 ⁶² |
| California | 2003 | CAL. LABOR CODE §§ 96(k) & 98.6 |
| Colorado | 1990 | COLO. REV. STAT. § 24-34-402.5 |
| Connecticut | 2003 | CONN. GEN. STAT. § 31-40s |
| District of Columbia | 1993 | D.C. CODE § 7-1703.03 |
| Illinois | 1987 | 820 ILL. COMP. STAT. 55/5 |
| Indiana | 2006 | IND. CODE §§ 22-5-4-1 to -3 |
| Kentucky | 1994 | KY. REV. STAT. ANN. § 344.040 |
| Louisiana | 1991 | LA. REV. STAT. ANN. § 23:966 |
| Maine | 1991 | ME. REV. STAT. ANN. tit. 26, § 597 |
| Minnesota | 1992 | MINN. STAT. § 181.938 |
| Mississippi | 1994 | MISS. CODE ANN. § 71-7-33 |
| Missouri | 1992 | MO. REV. STAT. § 290.145 |
| Montana | 1993 | MONT. CODE ANN. §§ 39-2-313 to -314 |
| Nevada | 1991 | NEV. REV. STAT. § 613.333 |
| New Hampshire | 1991 | N.H. REV. STAT. ANN. § 275:37-a |
| New Jersey | 1991 | N.J. STAT. ANN. §§ 34:6B-1 to -4. |
| New Mexico | 1991 | N.M. STAT. §§ 50-11-1 to -6 |
| New York | 1992 | N.Y. LAB. LAW § 201-d |
| North Carolina | 1991 | N.C. GEN. STAT. § 95-28.2 |
| North Dakota | 1993 | N.D. CENT. CODE §§ 14-02.4-01 to -09. |
| Oklahoma | 1991 | OKLA. STAT. tit. 40, § 500 |
| Oregon | 1989 | OR. REV. STAT. § 659A.315 |
| Rhode Island | 2005 | R.I. GEN. LAWS § 23-20.10-14 |
| South Carolina | 1990 | S.C. CODE ANN. § 41-1-85 |
| South Dakota | 1991 | S.D. CODIFIED LAWS § 60-4-11 |
| Tennessee | 1990 | TENN. CODE ANN. § 50-1-304 |
| Virginia | 1989 | VA. CODE ANN. § 2.2-2902 |
| West Virginia | 1992 | W. VA. CODE § 21-3-19 |
| Wisconsin | 1991 | WIS. STAT. §§ 111.31-322 |
| Wyoming | 1992 | WYO. STAT. ANN. §§ 27-9-101 to -106 |

61. Am. Lung Ass'n, *State Legislation Actions on Tobacco Issues: 2007*, available at http://slati.lungusa.org/reports/SLATI_07.pdf.

62. This statute was repealed by the passage of Proposition 201, the "Smoke-Free Arizona Act." The Act became effective on May 1, 2007.

IV. ON OBJECTIONS TO SMOKE-FREE WORKFORCE POLICIES

Aside from legal concerns, two main objections to tobacco-free workforce policies arise. The first is that these policies inappropriately interfere with employees' privacy.⁶³ The second is not a direct objection to the policy, but rather a concern that the policy would constitute a "slippery slope" and lead to employers refusing to hire other types of employees.⁶⁴ Often this is framed as a concern that overweight employees or employees with high cholesterol might be the next target of overzealous employers seeking to reduce healthcare costs. Both of these concerns were eloquently expressed by Lewis Maltby, President of the National Workrights Institute, at the Tobacco Control Legal Consortium's October 2007 symposium.⁶⁵

A. *Privacy Concerns are Overstated*

On the privacy issue, it is clear that tobacco-free workforce policies do not interfere with employee privacy in a legal sense. Although an implied right to privacy has been recognized by the U.S. Supreme Court, and several state constitutions expressly grant the right, no court has ever found that smoking is included in the right to privacy.⁶⁶ The right to privacy in the U.S. Constitution has been limited to a narrow range of family issues including

63. See, e.g., Pfeiffer, *supra* note 11, at A1 ("Employers should be greatly concerned about how employees perform their jobs and what happens in the workplace, but how employees want to lead their private lives is their own business," said Boston lawyer Harvey A. Schwartz, who represents Scott Rodrigues in his civil rights and privacy violation lawsuit against Scotts.").

64. For example, in response to the Cleveland Clinic's decision to hire only non-smokers, an op-ed in the *Cleveland Plain Dealer* asked, "[i]f the Clinic can cut smokers out of the job pool as expensive health risks, might overweight people be next, or sexually active gay males?" Kevin O'Brien, *Tobacco Policy a Breath of Foul Air*, CLEVELAND PLAIN DEALER, July 4, 2007, at B7.

65. As discussed at the symposium, Lewis Maltby was actively involved in the ACLU's efforts (funded in part by the tobacco industry) to encourage states to adopt "smokers' rights" legislation. See *supra* note 43 and accompanying text.

66. See, e.g., *City of N. Miami v. Kurtz*, 653 So. 2d 1025, 1028 (Fla. 1995) (finding that the city's policy of refusing to hire applicants who had smoked in the past year did not violate the privacy rights protected by either the U.S. or Florida Constitution). Likewise, the argument "that an employer's consideration of leisure-time smoking violates a legally protected common law privacy interest . . . is without legal merit." Karen L. Chadwick, *Is Leisure-Time Smoking a Valid Employment Consideration?*, 70 ALB. L. REV. 117, 127 (2006).

“marriage, procreation, abortion, contraception, and the raising and educating of children.”⁶⁷

Even though there is no legal objection to tobacco-free hiring policies, many people strongly believe that off-duty conduct—even if dangerous or unhealthy—is simply none of an employer’s business.⁶⁸ This argument would be more convincing if not for the fact that employees, as we have explained, bring their nicotine addiction to work. Their withdrawal symptoms in the workplace reduce productivity and impose substantial costs on their employers and on other employees.⁶⁹ Most employers already prohibit—and often test for—the use of narcotics and other psychoactive and addictive drugs that impact employment performance.⁷⁰ These policies are not implemented because the substances in question are illegal—employers have no obligation (and probably no interest) in assisting law enforcement efforts. Rather, employers have found that employees dealing with drug addiction or withdrawal are less productive, sometimes dangerous, and impose costs on the business as a whole.⁷¹ Nicotine addiction is no different.

It could be argued that even if tobacco use imposes some cost on employers, it is a cost that society must pay for respecting the privacy and autonomy of adults who make the decision to use a legal product. This argument fails for two reasons. First, smoking is rarely an adult decision. The vast majority of smokers begin smoking before the age of eighteen, when they develop a nicotine addiction that keeps them smoking into adulthood.⁷² Indeed, poll

67. Graff, *supra* note 47, at 4.

68. See, e.g., NAT’L WORKRIGHTS INST., LIFESTYLE DISCRIMINATION: EMPLOYER CONTROL OF LEGAL OFF DUTY EMPLOYEE ACTIVITIES, http://www.workrights.org/issue_lifestyle/ldbrie2.pdf (“The real issue here is the individual right to lead our lives as we choose. It is important that we preserve the distinction between company time and the sanctity of our private lives.”).

69. See *supra* notes 41–42 and accompanying text.

70. Gary White, *Job Applicant? Expect a Drug Test*, THE LEDGER (Lakeland, Fla.), Feb. 6, 2007, at A1 (“A 2006 survey by the Society for Human Resource Management found that 84 percent of employers required new hires to pass drug screenings . . .”).

71. Dalia Fahmy, *Aiming for a Drug-Free Workplace*, N.Y. TIMES, May 10, 2007, at C6 (“Drug users are almost four times as likely to be involved in a workplace accident as sober workers and five times as likely to file a workers’ compensation claim, according to government data. Drug users miss more days of work, show up late and change jobs more often.”).

72. M. Mathers et al., *Consequences of Youth Tobacco Use: A Review of Prospective Behavioural Studies*, 101 ADDICTION 948, 948 (2006) (“Most tobacco users initiate

2008] MANDATING A TOBACCO-FREE WORKFORCE 1667

after poll shows that more than 70% of smokers would like to quit.⁷³ Tobacco use is in most cases an addiction, not—despite the rhetoric of the tobacco industry—an “adult choice.” On the contrary, it is an ongoing public health disaster resulting from years of aggressive tobacco industry marketing to youth and young adults.⁷⁴ However, individuals can and do quit. There are currently more ex-smokers (forty-six million) in the United States than there are current smokers (forty-five million).⁷⁵ Unfortunately, many smokers do not quit until they have already suffered permanent health damage.⁷⁶ A smoke-free workplace provides gentler and timelier motivation for quitting than a heart attack or cancer.

Secondly, the argument that employers are running roughshod over employees’ privacy rights is less convincing where—as in the case of Scotts and Weyco—the employer is willing to provide all the cessation assistance necessary to help the employee break his or her nicotine addiction.⁷⁷ Indeed, the CEO of Scotts said that the company will *not* fire employees who are

and develop their smoking behaviour in adolescence, with very few people beginning their smoking habit as adults.”).

73. Jeffrey M. Jones, *Smoking Habits Stable; Most Would Like to Quit*, GALLUP NEWS SERV., July 18, 2006, available at <http://www.gallup.com/poll/23791/Smoking-Habits-Stable-Most-Would-Like-Quit.aspx>. In 2006, 75% of smokers said they would like to give up smoking, while just 22% said they would not. *Id.* Each time Gallup has asked this question since 1977, at least six in ten smokers have said they would like to quit. *Id.*

74. See, e.g., WORLD HEALTH ORG., WHO REPORT ON THE GLOBAL TOBACCO EPIDEMIC, 2008 21 (2008), available at http://www.who.int/tobacco/mpower/mpower_report_tobacco_crisis_2008.pdf.

The epidemic of tobacco use and disease as we know it today would not exist without the tobacco industry’s marketing and promotion of its deadly products over the past century. Tobacco companies have long targeted youth as “replacement smokers” to take the place of those who quit or die. The industry knows that addicting youth is its only hope for the future.

Id.

75. Ctrs. for Disease Control & Prevention, *Cigarette Smoking Among Adults—United States, 2006*, 56 MORBIDITY & MORTALITY WKLY. REP. 1157 (2007), available at <http://www.cdc.gov/mmwr/preview/mmwrhtml/mm5644a2.htm>.

76. See, e.g., Donald H. Taylor et al., *Benefits of Smoking Cessation for Longevity*, 92 AM. J. PUB. HEALTH 990, 995 (2002) (observing in Table 5 that men who quit smoking at age thirty-five gained eight-and-a-half years of life expectancy relative to a continuing smoker, whereas men who quit smoking at age sixty-five gained only two years of life expectancy).

77. *Countdown* (MSNBC television broadcast Jan. 12, 2006) (Scotts CEO James Hagedorn said, “[W]e’ll give them pharmaceuticals, we’ll give them counseling—whatever they need, we’ll give them. And there’s no expense on what we’ll do to get people to quit.”).

actively trying to quit smoking, even if it takes years of effort.⁷⁸ Rather than being forced out of a job because of their nicotine addiction, smokers are being asked to attempt smoking cessation. Provided that employers have an appropriate understanding of the difficulty of breaking nicotine addiction (and the multiple attempts that may be involved), it is hard to see how a requirement to attempt smoking cessation infringes on personal privacy more than a myriad of other decisions that people must make in order to keep their jobs. In order to accept or maintain a job, people are often required to make significant life changes such as moving, relinquishing other outside employment, refraining from using or endorsing competitors' products, cutting their hair, and rearranging their schedules. There is no reason that smoking should be prioritized above other activities in which employees may wish to engage outside of work. In fact, given the costs smoking imposes on others, there is considerably less justification for making it a protected activity.

B. Slippery Slope Concerns are Weak

Besides privacy-related arguments, the "slippery slope" argument seems to be the most common objection to tobacco-free workforce policies. In response to the World Health Organization's decision to stop hiring smokers, one commentator wrote that "WHO's next logical step in amending its application is to ask for the height and weight of applicants so it can discard the applications of obese people."⁷⁹ Tobacco use, however, remains in a class by itself. Tobacco use is known to cause the deaths of five million people worldwide⁸⁰ (and approximately 438,000 in the United States)⁸¹ each year—an entirely preventable public health crisis. Tobacco is the only legal consumable product that kills approximately one-half of the people who consume it, it is highly

78. Interview with Scotts CEO James Hagedorn (CNBC television broadcast Jan. 10, 2006) ("[W]hat we've told people is everybody who's making an effort to quit will not be impacted . . . [A]nybody who's making a good faith effort to quit smoking, with all the tools we're going to give them, will not be impacted, even if takes a year, two years, three years, for them to quit.").

79. Leonard Glantz, *Smoke Got In Their Eyes*, WASH. POST, Dec. 18, 2005, at B07.

80. World Health Org., *Tobacco Free Initiative: Why is Tobacco a Public Health Priority?*, http://www.who.int/tobacco/health_priority/en/index.html (last visited Jan. 8, 2007).

81. *Annual Smoking*, *supra* note 19.

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addictive, and it cannot be used safely in moderation.⁸² All of these factors are clear bases on which tobacco use can be distinguished from other potentially hazardous activities.⁸³

Discussing the argument that prohibitions on “egg eating and beer drinking” could come next, Professor Karen Chadwick at Michigan’s Thomas M. Cooley Law School recently outlined the weaknesses of the slippery slope argument:

When closely examined, the slippery-slope argument as applied to employment policies on smoking is problematic. No one seriously disputes that obesity and other conditions that impact health, like smoking, impose significant health and productivity costs on employers. However, although there is considerable evidence that smoking is directly related to significant lost productivity and increased employer health care costs, there is little data supporting the contention that off-duty egg eating and beer drinking result in similar directly correlative costs.

Unlike smoking, consuming eggs and beer is not addictive. Smoking directly correlates with deleterious health consequences. But unlike smoking, the causes of obesity, heart disease, diabetes, alcoholism, and other conditions are the result of a complex number of factors, not just egg or beer consumption. Thus, discrimination against lifestyles which include beer drinking, egg eating, or other similar behaviors would impose employer monitoring costs without obvious directly correlative benefits.⁸⁴

82. See Valleau, *supra* note 43, at 491; Joseph R. DiFranza et al., *Initial Symptoms of Nicotine Dependence in Adolescents*, 9 TOBACCO CONTROL 313, 313 (2000) (finding that “[t]he first symptoms of nicotine dependence can appear within days to weeks of the onset of occasional use, often before the onset of daily smoking.”).

83. See Michele L. Tyler, *Blowing Smoke: Do Smokers Have Rights? Limiting the Privacy Rights of Cigarette Smokers*, 86 GEO. L.J. 783, 794–803. As Tyler has written, the slippery slope argument is “emotionally powerful” but “practically weak.” *Id.* at 794. She writes:

Tobacco is unlike any other legal product; it is the only available consumer product that is hazardous to health when used as intended. As a result, the use of tobacco can be set apart analytically from other legal activities. . . . [T]obacco use differs from consumption of other products in both the magnitude of its abuse and the magnitude of the resultant risk of disease.

Id.

84. Chadwick, *supra* note 66, at 139–140.

Furthermore, the slippery slope concerns are entirely speculative. No employer has extended a tobacco-free workforce policy to exclude other types of employees who might increase healthcare costs. To the contrary, nearly all of the employers of whom we are aware who have instituted tobacco-free workforce policies have done so as part of a larger workforce-wellness agenda. These companies have built state-of-the-art gyms, provided healthier food in workplace cafeterias, provided coaches to help employees develop personal fitness plans, and more.⁸⁵ Far from discriminating against employees who may face higher health costs, these employers have actively sought to help them reduce their health risks. These employers should be applauded for their efforts, not vilified.

Some argue that employers might move beyond tobacco to prevent other high-risk behaviors like riding a motorcycle or hang-gliding.⁸⁶ This is speculative as well, and again, tobacco use (in the aggregate) imposes much more serious costs on employers than other risky activities.⁸⁷ Our legal system recognizes that employers have the right to set the conditions of employment, so long as they are not engaging in invidious discrimination.⁸⁸ An employer could choose to hire only people who did not hang-glide, provided that the employer was not in a state with a very broad "smokers' rights"

85. See, e.g., Michelle Conlin, *Get Healthy—Or Else; Inside One Company's All-Out Attack on Medical Costs*, BUS. WEEK, Feb. 26, 2007 (discussing wellness programs at Scotts and other companies).

86. See, e.g., Dick Dahl, *Employers Take Action to Control 'Unhealthy' Employee Lifestyles*, LAW. USA, Feb. 12, 2007 (quoting a corporate attorney suggesting that "[t]here's a lot of speculation about where you should draw the line. Should you try to restrict other 'risky activities' like hang gliding or overeating?"); Interview by Carol Lin with Lewis Maltby, President, National Work Rights Institute (CNN television broadcast Dec. 10, 2005), transcript available at <http://transcripts.cnn.com/TRANSCRIPTS/0512/10/pitn.01.html>:

[Y]ou can't fire people—at least, you shouldn't, for doing something that might make them sick someday. We all do things in our private life that could adversely affect our health. It could be smoking, it could be drinking, it could be junk food, it could be riding a motorcycle, could be practicing unsafe sex, could be having too many children. If we let our employers start telling us what to do in our private lives, because it effects our health care costs, we can all kiss our private lives good-bye.

87. Ali H. Mokdad et al., *Actual Causes of Death in the United States, 2000*, 291 J. AM. MED. ASS'N 1238, 1240 Table 2 (2004) (finding that in 2000, tobacco use accounted for 18.1% of deaths in the United States, whereas illicit drug use, sexual behavior, firearms, and motor vehicle accidents combined accounted for 4.5% of all U.S. deaths).

88. See *supra* notes 44–46 and accompanying text.

law that applies generally to off-duty lawful activities.⁸⁹ However, a reasonable employer would consider the potential benefits of the policy in relation to the policy's costs—most notably, a reduction in the pool of qualified employees. For this reason, an employer is highly unlikely to propose such a policy unless the activity in question is imposing substantial costs on the business. It is no coincidence that we are seeing more and more tobacco-free workforce policies, but no “hang-glider-free workforce” policies.

Any concern about a “slippery slope” can be monitored, and future policy developments can be debated and, if necessary, reined in through the political process.⁹⁰ For the moment however, the “slippery slope” argument does not provide a compelling basis for preventing employers from implementing tobacco-free workplace policies. In addition to the positive impact on business productivity, these policies are likely to reduce tobacco use and save lives.⁹¹ They should not be prohibited or delayed in deference to hypothetical “slippery slope” concerns.

V. A SHAKY MIDDLE GROUND: INSURANCE SURCHARGES

Karen Chadwick has argued that, given the tension between employer costs and privacy concerns, we should settle on a “middle ground” that would prohibit employers from making hiring decisions based on smoking but allow them to “pass on health care costs attributable to smoking to those employers that smoke.”⁹² We agree that employers should have the option to impose health insurance surcharges on employees who smoke. But we see practical, legal, and logical problems with a regime that allows employers to charge health-care surcharges but proscribes tobacco-free workforce policies.

89. See *supra* Part III.

90. Lewis Maltby's reference to Henry Ford's own private police force proves too much. Perhaps employers *could* adopt similar policies today, but they don't. Any company that attempted to monitor its employees' off-duty morality would likely see a dramatic reduction in job applicants without any corresponding cost savings. To put it more directly, any company that announced such a policy would be relentlessly ridiculed. This alone should suggest that the “slippery slope” argument is overstated.

91. In the case of Weyco, for example, of the twenty-eight smokers employed by the company at the time the tobacco-free workforce policy was implemented, twenty-four quit smoking. Robinson, *supra* note 4, at 3.

92. Chadwick, *supra* note 66, at 137.

First, Chadwick's proposal does not take into account the fact that employees who smoke impose substantial costs on employers that go beyond healthcare costs.⁹³ These costs, such as lost productivity and excess workers' compensation claims, are outlined above.⁹⁴ Secondly, even if looking only at health-related costs, companies may be legally barred from imposing a health insurance surcharge high enough to fully recoup smoking-related expenses. Pursuant to administrative rules implementing the Health Insurance Portability and Accountability Act (HIPAA), employers can only add a premium surcharge of up to 20% of the total cost of employee-only coverage for employees who use tobacco.⁹⁵ Moreover, employers are prohibited from imposing the surcharge on current tobacco users for whom it is "unreasonably difficult... to stop smoking."⁹⁶

Given these legal limitations, it is unlikely that surcharges would truly be able to recover the excess costs imposed by tobacco users, and it is equally unlikely that the surcharges would be effective at motivating employees to quit (particularly when they can just claim that quitting is "unreasonably difficult").⁹⁷ Indeed, the HIPAA limitations were reportedly one factor that led Scotts to adopt a smoke-free workforce policy.⁹⁸ Third, as Lewis Maltby noted at the Tobacco Control Legal Consortium symposium, enforcing a surcharge policy implicates all of the same privacy concerns as a smoke-free workforce policy.⁹⁹ Thus, it does nothing

93. See *supra* Part II.

94. See *supra* Table I.

95. See 45 C.F.R. § 146.121(f)(2)(i) (2007).

96. 45 C.F.R. § 146.121(f)(2)(iv), (3)(Ex. 5) (2007). Those for whom quitting is "unreasonably difficult" can be required to participate in a cessation program. However, the surcharge cannot be applied so long as they participate in the cessation program, even if they continue to use tobacco afterwards. *Id.*

97. See Conlin, *supra* note 85 ("Some theorized that higher co-payments and pricier premiums would get people to take better care of themselves. It's not happening.").

98. John Jarvis, *Marysville Company Forcing a Healthy Choice: If You're a Smoker, You Can't Work Here*, MARION STAR (Ohio), Jan. 22, 2006 ("In making their decision, company officials also took into account that the law doesn't allow a company to deny health coverage to employees who are smokers or add fees to their premium that 'accurately reflect the true cost of smoking,' [Scotts spokesman Jim] King said.").

99. Cf. Tyler, *supra* note 83, at 795 ("Nor does this [surcharge] solution address the slippery slope problem. Instead, it encourages employers to further invade informational privacy rights by making other 'unhealthy' behaviors, such as poor diet, and risky hobbies such as sky-diving, cause to terminate or reduce an employee's health insurance.").

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to address the tension between employer interests and privacy concerns.

In addition, hiring tobacco users but then implementing and enforcing a surcharge system creates a strong incentive for employees to mislead their employers. It is likely that at least some new employees who are current smokers will claim that they are non-smokers (or former smokers who have recently quit) in order to avoid paying the healthcare surcharge. Companies that are committed to enforcing the surcharge policy may conduct random tests to verify smoking status. If, however, tests later reveal that an employee has been untruthful, the company is left in a no-win situation. The company could dismiss the employee for lying on the health insurance application, but by that point, the company may have spent thousands of dollars in training expenses. Firing the employee may also lead to a wrongful termination suit, costing the company even more in legal bills. Companies would be far better off if they were able to do pre-employment testing and avoid these potential problems. Relative to a smoke-free workforce policy, the surcharge option may create far more practical and legal headaches.

In sum, we think this area is one where employers should have the ability to choose the option that works best for them—whether it is the status quo, tobacco use surcharges, or a tobacco-free workforce policy.¹⁰⁰ Tobacco use surcharges may work for some employers, but surcharges are certainly not a one-size-fits-all panacea that will work for all businesses.

VI. CONCLUSION

Though there are likely to be substantial public health implications to the widespread adoption of tobacco-free workforce policies, it is businesses owners and managers who must decide whether such policies make sense for their businesses. Tobacco-control advocates and business groups do not always see eye-to-eye, but this appears to be a case where business and public health interests converge. In addition to improving employee health and

100. Lewis Maltby stated at the TCLC symposium that before initiating a surcharge program backed up by testing, “employers need to consider how employees will react.” We completely agree. Employers are the ones who know their workforce and their workplace best. It should be left to the employer to balance the competing considerations and determine what policy works for a given company.

workforce productivity, tobacco-free workforce policies will send a strong signal to college students and young adults to stay away from tobacco (just as current drug-testing programs by employers discourage the use of illegal drugs).¹⁰¹

Facing the preventable, premature deaths of over 400,000 Americans each year and annual excess costs of more than \$160 billion,¹⁰² the U.S. Department of Health and Human Services goals delineated in *Healthy People 2010* a target U.S. adult smoking prevalence of only 12%.¹⁰³ Though the target date is less than two years away, we are still a long way from achieving that goal. The current adult smoking rate is over 20%,¹⁰⁴ and we have seen only minimal declines in smoking rates over the last decade.¹⁰⁵ Current tobacco control efforts are simply not reducing smoking rates quickly enough to derail the continuing public health catastrophe caused by cigarette smoking. If we are to make further progress in reducing the horrendous toll imposed by cigarettes, tobacco control advocates must be willing to work with the private sector and to support novel private-sector initiatives such as tobacco-free workforce policies.

101. Indeed, college students are already beginning to take notice. College newspapers across the country have covered companies' decisions to implement tobacco-free workforce policies. For example, a recent article in the University of Maryland's student newspaper warned students that "[a] cigarette drag is no longer just a health risk; it's a career liability." Ben Block, *Employers Less Likely to Hire Smokers*, THE DIAMONDBACK, Dec. 15, 2005, available at <http://media.www.diamondbackonline.com> (search "Employers Smokers").

102. *Annual Smoking*, *supra* note 19.

103. U.S. DEPT. OF HEALTH & HUMAN SERVS., HEALTHY PEOPLE 2010—TOBACCO USE (Nov. 2000), http://www.healthypeople.gov/document/html/volume2/27tobacco.htm#_Toc489766214.

104. CTRS. FOR DISEASE CONTROL & PREVENTION, BEHAVIORAL RISK FACTOR SURVEILLANCE SYSTEM, PREVALENCE DATA—NATIONWIDE (STATES AND DC)—TOBACCO USE 2006, <http://apps.nccd.cdc.gov/brfss/display.asp?yr=2006&cat=TU&qkey=4396&state=UB>.

105. See Ctrs. for Disease Control & Prevention, *Cigarette Smoking Among Adults—United States, 2006*, *supra* note 75 (noting that the adult smoking rate has declined from 24.7% in 1997 to 20.6% in 2006, but has remained virtually unchanged since 2004).

PAGE
BREAK

MANSFIELD INLAND WETLANDS AGENCY



Item #8

JoAnn Goodwin, Chair

AUDREY P. BECK BUILDING
FOUR SOUTH HAGLEVILLE ROAD
MANSFIELD, CT 06268-2599
(860) 429-3330
Fax: (860) 429-6863

June 16, 2014

Mr. Paul Ferri
UConn Office of Environmental Policy
31 LeDoyt Road, U-3055
Storrs, Connecticut 06269

Subject: STEM Residence Hall DEEP Wetlands Permit Application

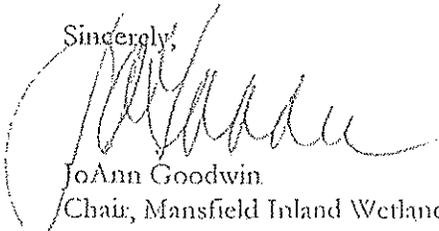
Dear Mr. Ferri:

Thank you for providing us with a copy of your wetlands permit application to DEEP regarding wetland impacts proposed as part of the development of the STEM residence hall. The Mansfield Inland Wetlands Agency reviewed this permit application at our June 2, 2014 meeting.

By consensus, the Agency requested that I reiterate the comments provided to you by the Town Council and Planning and Zoning Commission in response to the Environmental Impact Evaluation for this project (see letter dated May 28, 2014). Specifically, the Agency requests that UConn mitigate the loss of this wetland area through the creation of new wetland areas elsewhere on campus. Furthermore, we strongly support the use of green roofs and bio-retention ponds proposed as part of the development and encourage the University to expand the use of these Low Impact Development (LID) stormwater management techniques where possible, including installation of a rain garden near the site of the existing wetland.

If you have any questions regarding these comments, please contact Linda Painter, Director of Planning and Development.

Sincerely,


JoAnn Goodwin
Chair, Mansfield Inland Wetlands Agency

Cc: CT DEEP Inland Water Resources Division
Town Council
Conservation Commission

PAGE
BREAK

TOWN OF MANSFIELD
TOWN COUNCIL



Item #9

Elizabeth C. Paterson, Mayor

AUDREY P. BECK BUILDING
FOUR SOUTH EAGLEVILLE ROAD
MANSFIELD, CT 06268-2599
(860) 429-3336
Fax: (860) 429-6863

June 12, 2014

Mr. Alexander Marcellino
Town Councilor
87 Davis Road
Mansfield, Connecticut 06268

Re: Appointment to WRTD

Dear Councilor Marcellino:

In accordance with Connecticut General Statutes §7-273c and §9-167a, I am appointing you as a Mansfield representative to the Windham Region Transit District (WRTD). Your appointment commenced on June 9, 2014 and will expire on June 8, 2018.

I trust that you will find this appointment to be rewarding, and I greatly appreciate your willingness to serve our community in this capacity.

Please do not hesitate to contact me with any questions regarding your appointment.

Sincerely,

Elizabeth C. Paterson
Mayor

CC: Melinda Perkins, WRTD
Town Council
Matt Hart, Town Manager
Mary Stanton, Town Clerk

TOWN OF MANSFIELD
TOWN COUNCIL



Elizabeth C. Paterson, Mayor

AUDREY P. BECK BUILDING
FOUR SOUTH EAGLEVILLE ROAD
MANSFIELD, CT 06268-2599
(860) 429-3336
Fax: (860) 429-6863

June 12, 2014

Mr. Matthew W. Hart
Town Manager
Town of Mansfield
4 South Eagleville Road
Mansfield, Connecticut 06268

Re: Appointment to WRTD

Dear Mr. Hart:

In accordance with Connecticut General Statutes §7-273c and §9-167a, I am appointing you as a Mansfield representative to the Windham Region Transit District (WRTD). Your appointment commenced on June 9, 2014 and will expire on June 8, 2016.

I trust that you will find this appointment to be rewarding, and I greatly appreciate your willingness to serve our community in this capacity.

Please do not hesitate to contact me with any questions regarding your appointment.

Sincerely,


Elizabeth C. Paterson
Mayor

CC: Melinda Perkins, WRTD
Town Council
Mary Stanton, Town Clerk

TOWN OF MANSFIELD
TOWN COUNCIL



Item # 10

ELIZABETH C. PATERSON, Mayor

AUDREY P. BECK BUILDING
FOUR SOUTH EAGLEVILLE ROAD
MANSFIELD, CT 06268-2599
(860) 429-3336
Fax: (860) 429-6863

June 12, 2014

Mr. Paul Aho
Eastwood Road
Storrs-Mansfield, Connecticut 06268

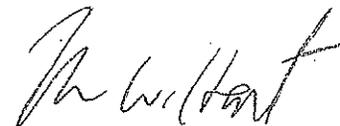
Dear Mr. Aho:

On behalf of the Town of Mansfield, we would like to thank you for your many years of service as our representative to the Windham Region Transit District (WRTD). During your tenure, ridership has increased significantly. You have also been instrumental in developing the parking operations plan for Storrs Center and in advocating for the development of the Nash-Zimmer Transportation Center.

We greatly appreciate your leadership and support for public transportation in our region, and wish you all the best in your future endeavors.

Sincerely,


Elizabeth C. Paterson
Mayor


Matthew W. Hart
Town Manager

CC: Melinda Perkins, WRTD
Town Council
Transportation Advisory Committee

PAGE
BREAK



Town of Mansfield Department of Finance

To: Matt Hart, Town Manager
From: Cherie Trahan, Director
Date: June 17, 2014
Re: Mileage Reimbursements for Superintendent Baruzzi

As you know, there has been significant discussion regarding the reimbursement of mileage for Superintendent Baruzzi. Serving as the School Business Manager for the Board, I have been doing research and providing information to the Board's Finance Committee. Since this issue was also raised at a Town budget workshop and a Town Finance Committee meeting, I would like to provide you an update along with recommendations for moving forward.

Board of Education Finance Committee Review & Recommendations

The Board Finance Committee met on May 5, May 14 and June 11, 2014. The minutes from the two May meetings and the Finance Committee's recommendations to the full Board are attached (Attachments #1 – 3). I expect the June 11, 2014 meeting minutes will follow soon. Some discussion highlights are as follows:

1. Mileage reimbursement is included in Superintendent Baruzzi's employment contract. The Board will begin negotiating next year's employment contract for Superintendent Baruzzi with a mileage reimbursement cap of \$9,000.
2. Mileage reimbursement is included in the Board of Education's budget as a separate line item and has been for many, many years. The proposed budget for FY 14/15 for this line item was reduced by \$17,000 when adopted.
3. The Fiscal Management Policies of the Board do not specifically address mileage reimbursement. The Board has instructed Superintendent Baruzzi and me to work with Shipman & Goodwin to revise the policies to include an appropriate policy for mileage reimbursement. We will also work with Blum Shapiro on reviewing and revising any accounting procedures.
4. The mileage reimbursement form that the Board has been using has been in place for as long as I know. This form requires the following information – date, destination, miles, and amount. The Board requested a revised form that would account for more information and would be used by all Board employees. I have created a form that includes – employee name, department, "home" worksite, period reporting for, reimbursement rate, date of travel, from location, to location, nature or purpose of the meeting or event, time at the destination, miles driven, and the amount of reimbursement

requested. This form requires the employee's signature and date and an administrator's approval and date. In addition, an "approved mileage chart" has been developed for the more common trips (i.e. between school locations, from the District to State Dept. of Education, etc.). An electronic map (i.e. Mapquest) must be submitted with the reimbursement form for any trips not on the approved mileage chart. The Finance Department will check for the appropriate approvals, verify the mileage reported, verify the reimbursement rate, and calculate the amount to be reimbursed. This procedure will be effective July 1, 2014 for all Board employees. I expect to roll the same procedure out for the Town and Region 19 in the very near future. While the Town's mileage reimbursement procedure meets auditing standards, we think it would be wise to standardize our forms.

5. The Board has also requested that I review and approve any reimbursements for Superintendent Baruzzi and to provide an update to the Board on those reimbursements along with the quarterly financial statements. I will review the submissions for documentation and monitor against the budget. However, it is the responsibility of the Board to determine the appropriateness and value of trips. Superintendent Baruzzi currently provides a monthly update to the Board (see sample Attachment #4) which includes many of the meetings and conferences he attends during any given month. In addition, I provided a list of the various committees that Superintendent Baruzzi serves on for their review. The Board Finance Committee will meet on a quarterly basis to review the financial statements and discuss any fiscal concerns
6. The estimated cost for a forensic audit by Blum Shapiro is approximately \$5,000 - \$8,000. The Board decided to move forward with an in-house review of the last six weeks of completed expense reports before going further with a forensic audit as there is no evidence of fraud at this time. The Finance Department used Mapquest to validate the mileage claimed on the reimbursement requests. We found one discrepancy that threw the mileage reimbursement off for many of the days. Superintendent Baruzzi used 55 miles per trip to and from the Institute of Technology and Business Development in New Britain and the actual mileage is 39 miles. Having 5 years of payment vouchers in house, the Finance office calculated the total amount overpaid for the 5 year period. This amount was \$10,593.64 and Superintendent Baruzzi reimbursed that amount to the Town on June 11, 2014. It is important to note that excluding these trips, the amount of mileage claimed and paid for the period resulted in a net shortage of approximately 28 miles reimbursement to Superintendent Baruzzi. Therefore, while the mileage claimed by day was rounded off, the end result for the period was very close to the actual mileage for the six week period.
7. At the Finance Committee's request several specific dates were reviewed for accuracy. It was discovered that two of the dates were erroneously duplicated and therefore overpaid. The total amount overpaid was \$307.45 and reimbursement has been received from Superintendent Baruzzi.
8. Due to the errors discovered, the Board is engaging Blum Shapiro to randomly select one month per year for the last three fiscal years (11/12, 12/13, and 13/14) to audit all mileage reimbursement forms submitted by the Superintendent for accuracy of mileage amounts, that the dates are correct, and that mileage is calculated correctly. Blum Shapiro will

have a report to present to the Board Finance Committee by September 1, 2014. The Finance Committee will assess at that time whether further review is necessary.

Internal Control Procedures

Questions have also been raised about the sufficiency of our internal controls and our consistency in implementing these controls. Each year at the beginning of the annual audit, the auditors conduct an internal control "walk through". They meet with various departments/personnel and document our key processes (see sample Attachment #5). Then they randomly select some transactions to walk through this process with in order to ascertain if we are following through on the procedures we have discussed. They also review these procedures for adequacy. We have had no material findings of non-compliance with our procedures. If the auditors find processes that are insufficient or can be improved in some way, they will provide recommendations in the Management Recommendations letter. The recommendations we have received from the auditors over recent years have been helpful and we have implemented them. None of the recommendations from the auditors were the result of significant deficiencies being identified. Please see the attached audit exit letter dated December 18, 2013 (Attachment #6).

At the beginning of each audit the auditors contact the governing body of each entity to review the scope of the audit and to see if there are any specific areas of concern that they would like looked at. A copy of last year's letter is attached for your information (Communication With Those Charged With Governance – Attachment #7). This year's letter will be forthcoming.

I have had numerous discussions with Vanessa Rossitto from Blum Shapiro regarding our internal controls. Overall, she has confirmed that our procedures and internal controls are good and that we are complying with them. Specifically with regard to the mileage reimbursement, we should have been requiring the purpose of the trip. She has not seen any instances where a finance office recalculates the mileage or confirms the purpose or attendance at a meeting or event. The Town's policy requires the purpose of the meeting however, this procedure had not yet been implemented for the Board. Ms. Rossitto confirmed that we were following our procedures and that an audit would not have picked up this particular concern.

Shared Services and Recommendations

The Finance Committee has requested a discussion on our shared services practice and the concern of one individual providing adequate oversight for so many agencies. This is a good question to ask and one that warrants review. A number of things need to be considered including the level of oversight desired, the cost-benefit of that oversight, the level of professional staff available to provide assistance, and the many other benefits that come with sharing services, just one of which is cost savings.

I have spoken with many other finance directors around the State and they are quite envious of our Town's relationship with the Board of Education. We basically have unlimited access to their financial information and communicate regularly to make good use of our resources – both for education and general government. Most communities don't have this relationship, in fact, many town offices have significant difficulty in getting the level of detail of the Board's finances that we take for granted. For this reason, and many others, I strongly support the current 20+ year history we have of shared services.

This does not mean that we do not have challenges, however. Particularly over the last 5 – 6 years resources have been scarce (State aid reductions) and workforce reduced (reduction of one FT Finance Clerk) all while expectations and workload have increased. It is particularly challenging during budget season. Not only do each of the three major entities have numerous budget meetings that I need to attend, but the strain on the finance staff to assist with and prepare three major budgets in a very compressed period of time is significant. We do not have a dedicated budget department. I have one budget analyst, who besides preparing and coordinating all of the salary budgeting and adjustments for 4 agencies, is also responsible for grant monitoring and reporting, assisting with budget oversight and projections, capital projects fiscal management and other various responsibilities. These functions have all grown significantly with the growth in Storrs Center and the need to stretch our dollars further. We are also constantly striving to increase our communication and transparency of financial data with the public. In fact, we are currently working on a project with our financial software vendor to make our financial data readily available to the public via a secure, easy to use website.

Given all of this, if further scrutiny of our collective budgets (Town & Board) is desired, I believe the most cost effective way to achieve this is through the addition of a budget analyst to the staff. This would provide one budget analyst who would be responsible for the day-to-day transactions and review for the Boards of Education budgets and one budget analyst who would do the same for all Town activities. This would be significantly less costly than each entity having their own finance department, possibly financial software, and chief fiscal officer, and further we would maintain the many benefits of shared services. I believe we could effectively manage the various budgets with more scrutiny under this scenario.

Please let me know if you would like to discuss this further.

Finance Committee Draft Minutes – Monday, May 5th 5:00 pm Conf Room B, Town Hall

Present – Mark LaPlaca (chair), Martha Kelly, Randy Walikonis

Staff present – Cherie Trahan- Finance Director

Other Board members (not FC) present – Katherine Paulhus, John Fratiello

The meeting was called to order by Mr. LaPlaca at 5:00

The committee reviewed the charge the Board gave to the FC at the special meeting of April 30th.

The committee reviewed with the Finance Director the current procedures by which mileage reimbursement claims are filed and approved and began discussion of possible ways to reduce expenses. The committee requested more information before deciding formally on recommendations for changes.

The committee reviewed the following:

1. An estimate of the cost of a forensic audit (5K-8K) and agreed that there was no need for an additional outside audit of any kind at this time.
2. No other towns or Boards that the Board's auditors were aware of require odometer readings.
3. The town of Mansfield's mileage reimbursement policy.
4. The superintendent's contract. The committee confirmed that he is being reimbursed for expenses in accordance with his contract. The committee requested that the finance dept work with the Superintendent's office to provide the FC with documentation and detailed purpose of all travel for the last 6 weeks of completed expense reports in order to review them for accuracy and purpose of travel to aid in recommendations for ways to reduce expenditures.
5. A detail of the other items charged to travel expenses for the district, including stipends that are paid to administrators for in-district travel. The committee discussed considering whether to recommend that the personnel committee try to negotiate changes in that contract next fall.
6. BOE updates that detailed many of the meetings that the superintendent attends each month.
7. A list of the various regional and state-wide educational committees that the Superintendent serves on – a total of nineteen
8. A detailed breakdown for the last 7 years of mileage reimbursements – the amount paid to the Superintendent and the amount paid to others in the district.

The committee directed the Finance Director to provide the following for our next meeting:

1. Detailed mileage reimbursements for last six weeks of completed expense reports.
2. Information on whether mileage reimbursement is subject to pension reporting requirements

3. Samples of other reimbursement policies and procedures from other school districts – both through CASBO and CABA.
4. Information about the costs of purchasing an energy-efficient automobile for the use of Board employees.
5. Information about the costs and legal considerations of using Town of Mansfield automobiles.

The committee agreed to meet again on May 14th at 6:30pm – meeting room TBD

Motion by Mr. Walikonis to adjourn at 6:50pm. Second by Mrs. Kelly. Vote – Unanimous in favor.

Finance Committee Draft Minutes – Wednesday, May 14th 6:30 pm Conf Room C,
Town Hall

Present – Mark LaPlaca (chair), Martha Kelly, Randy Walikonis

Staff present – Cherie Trahan- Finance Director

Other Board members (not FC) present – Katherine Paulhus, Jay Rueckl

The meeting was called to order by Mr. LaPlaca at 6:30

The committee reviewed with the Finance Director the following:

1. Detailed mileage reimbursements for last six weeks of completed expense reports.
2. Information on whether mileage reimbursement is subject to pension reporting requirements
3. Samples of other reimbursement policies and procedures from other school districts – both through CASBO and CABB.
4. Information about the costs of purchasing an energy-efficient automobile for the use of Board employees.
5. Information about the costs and legal considerations of using Town of Mansfield automobiles.

Motion by Mrs. Kelly – that the Finance Committee of the Mansfield Board of Education recommend securing the advice and services of an outside auditor to review and establish financial management guidelines, as well as formulate financial policies and procedures for the Board. These financial management policies would be used in conjunction with other Board policies. The auditor would submit a report to the Finance Committee.

Motion was seconded by Mr. Walikonis.

After discussion, the motion failed – Mrs. Kelly voting in the affirmative and Mr. Walikonis and Mr. LaPlaca voting no.

The committee requested that the Finance Director invite the current outside auditor to the next meeting to review the changes already suggested and discuss other recommendations.

The committee requested the Finance Director to audit 4 more days of completed expense reports. The specific dates to be submitted by Mrs. Kelly.

The committee requested the Finance Director begin implementation of recommendations that do not need BOE approval.

The committee agreed to meet again on during the week of June 9th, exact date and time TBA depending on member availability.

Motion by Mr. Walikonis to adjourn at 9:01 pm. Second by Mrs. Kelly. Vote – Unanimous in favor.

Recommendations of the Finance Committee
June 12, 2014

Charge #1 -Review and evaluate the procedures by which mileage reimbursement claims are filed and approved or disapproved, as well as the oversight of these procedures, and to provide the full Board with a summary of these procedures as well as recommendations for change, if any.

1. The current BOE mileage reimbursement form was found to be inadequate. The finance dept was directed to provide and begin requiring use, by July 1, 2014, of a more detailed form, including requiring that individuals provide information regarding the purpose of the travel and time spent at each location traveled to. Further, it should be the goal to provide a form (excel for example) that would calculate the mileage and the reimbursement, thereby improving accuracy.
2. BOE employees submitting mileage reimbursement forms were not required to provide any documentation of the actual mileage. The finance dept. was directed to develop, provide to affected employees and begin requiring use, by July 1, 2014, of a "standard mileage chart" to any frequently traveled to sites. Modeled after the state of CT chart, this will be the only allowed mileage to be reimbursed for travel to those sites. Any BOE traveling on approved business to any other locations should be required to attach Mapquest or other documentation of mileage.
3. BOE mileage or travel reimbursement is currently approved at the building level by the Principal, and then by the Superintendent. The recommendation is to continue this practice. The mileage or travel reimbursement for the Superintendent of Schools was not subject to approval and was infrequently audited for accuracy. The recommendation is to allow the Finance Director to approve these reports subject to review with the Finance Committee of the BOE on a quarterly basis. When Quarterly Financial Reports are issued, the Finance Committee will meet prior to the BOE meeting to review any significant information, including travel and mileage reimbursements.
4. Policies and procedures for mileage reimbursement were found to be non-specific. The recommendation is that the Superintendent and Finance Director work with the auditors (BlumShapiro) to develop specific procedures and work with the Board's attorney to develop a draft policy in alignment with these new procedures and present these to the Board's policy committee by the end of October, 2014.

Charge #2 - Examine ways to reduce district expenditures for mileage reimbursement, including (but not limited to) possible changes in the amount of travel that can be reimbursed, the reimbursement rate, alternative approaches such as the use of a district-owned or -leased car, and taking into account the educational value of out-of-district travel by district staff.

Recommendations:

1. Advise the Personnel Committee to negotiate specific language in the new Administrator's contract regarding the "past practice" of providing stipends for in-district travel and work to reduce or eliminate the amount paid, taking into account whether or not that amount would be greater if individual reimbursement forms were submitted.
2. Require more specific language in the Superintendent's contract limiting the amount of reimbursement for mileage without express Board authorization to \$9000 annually.
3. Audits were completed for six weeks of completed expense reports for the Superintendent from 2/11/14 through 3/21/14. This audit showed an overstatement of the mileage reimbursed for trips to one specific location (New Britain) and has been attributed to an inaccurate mileage estimate for that location. The amount overpaid was \$304.22 for the 6 week period. It should be noted that estimated mileage to other locations was shown to be understated, although significantly less.

After realizing that mileage to this location had been inaccurately estimated and that error never noticed, the finance dept reviewed expense reports submitted by the Superintendent for the previous 5 years (as far back as records were available – beginning with school year 09-10) and the number of trips to that location were determined. The amount the Supt. was overpaid was then calculated and came out to \$10,593.64 over the 5 year period. Superintendent Baruzzi has reimbursed the Board for that amount and those funds have been deposited into the Town's disbursing account.

Another audit was completed for 4 separate days that seemed less likely for significant travel. That audit showed that mileage for one day was inadvertently submitted twice, resulting in overpayment of \$121.00

Since both audits revealed mistakes resulting in overpayment, the recommendation is to direct the Finance dept. to engage BlumShapiro to randomly select one month per year for the last three fiscal years (2011/2012, 2012/2013, and 2013/2014) to audit all mileage reimbursement forms submitted by the Superintendent for accuracy of mileage amounts, that dates are correct, and that mileage is calculated correctly and to have a report to present to the Finance Committee by September 1, 2014.

Mansfield Public Schools Board of Education Update

Fred Baruzzi

Superintendent of Schools

Issue #68

February 2014

Information regarding the current status of the Mansfield Public Schools: items, issues, challenges, and opportunities district staff addressed during the month, as well as upcoming district and school events.

Enrollment

| Gr. | GW | | SE | | VN | | MMS | | Total |
|--------------|------------|-------------|------------|--------------|------------|--------------|------------|-------------|-------------|
| | | +/-* | | +/-* | | +/-* | | +/-* | |
| PK | 28 | 6/0 | 26 | 2/0 | 34 | 6/1 | | | 88 |
| K | 34 | 4/1 | 37 | 5/2 | 42 | 4/1 | | | 113 |
| 1 | 43 | 1/1 | 48 | 4/2 | 49 | 10/2 | | | 140 |
| 2 | 32 | 5/1 | 53 | 10/2 | 45 | 2/5 | | | 130 |
| 3 | 40 | 1/5 | 46 | 7/1 | 47 | 1/3 | | | 133 |
| 4 | 28 | 1/0 | 35 | 5/3 | 50 | 2/3 | | | 113 |
| PK-4 | | | | | | | | | 717 |
| 5 | | | | | | | 126 | 11/4 | 126 |
| 6 | | | | | | | 135 | 5/0 | 135 |
| 7 | | | | | | | 139 | 3/2 | 139 |
| 8 | | | | | | | 143 | 4/1 | 143 |
| # Boys | 111 | | 116 | | 137 | | 279 | | |
| # Girls | 94 | | 129 | | 130 | | 264 | | |
| Total | 205 | 18/8 | 245 | 33/10 | 267 | 25/15 | 543 | 23/7 | 1260 |

*Enrolled/Withdrawn

Homeschool: 15 students from 8 families

| | GW | SE | VN | MMS | District |
|---------------------|----|----|----|-----|----------|
| Immigrant Children* | 5 | 8 | 1 | 5 | 19 |
| ELL** | 16 | 12 | 9 | 12 | 49 |

*Eligible immigrant children are defined as a) ages 3-21 enrolled full-time in school, b) not born in any state, c) have not been attending 1 or more schools in 1 or more states for more than 3 full academic years.
**English Language Learners

District Performance Targets (12-13)

| Indicator | Participation Rate | DPI | Target | Achieved |
|--------------------------|--------------------|------|--------|----------|
| DPI* | 100.0% | 90.0 | 88.0 | Yes |
| Students w/ Disabilities | 100.0% | 64.1 | 62.1 | Yes |
| Free/Reduced Eligible | 100.0% | 79.4 | 78.0 | Yes |
| Hispanic or Latino | 100.0% | 78.7 | 81.8 | No |
| ELL | 100.0% | | | |
| Reading | 100.0% | 88.4 | 86.7 | Yes |
| Mathematics | 100.0% | 90.9 | 88.0 | Yes |
| Writing | 100.06% | 91.1 | 88.0 | Yes |
| Science | 100.0% | 92.0 | 88.0 | Yes |

* District Performance Index

Connecticut Mastery Test Results

/ % of students at/above goal – March 2013

| Grade | Math | Writing | Reading | Science |
|-------|------------|------------|------------|------------|
| 3-115 | 95 / 83.3 | 89 / 77.4 | 88 / 76.5 | n/a |
| 4-124 | 102 / 82.3 | 90 / 72.5 | 92 / 75.4 | n/a |
| 5-137 | 124 / 91.9 | 116 / 85.3 | 108 / 80.6 | 119 / 86.9 |
| 6-141 | 108 / 76.6 | 107 / 76.4 | 112 / 80.0 | n/a |
| 7-135 | 117 / 86.7 | 120 / 88.9 | 122 / 90.4 | n/a |
| 8-141 | 105 / 75.0 | 122 / 87.1 | 118 / 84.3 | 117 / 83.0 |

Students not reaching goal in one or more areas: (2013-2014 grade)

| | |
|----------------|----------------|
| Gr. 4 – 39/34% | Gr. 7 – 57/40% |
| Gr. 5 – 49/39% | Gr. 8 – 26/19% |
| Gr. 6 – 43/31% | Gr. 9 – 44/31% |

Budget

- Food Service Comparison:

| August 2013-February 2013 | | August 2013-February 2014 | |
|---------------------------|-------------|---------------------------|-------------|
| Paid Meals | Total Meals | Paid Meals | Total Meals |
| 46,803 | 90,033 | 51,770 | 88,465 |

- Continued budget discussions at Board of Education meetings.
- Prepared answers to Board questions.

Personnel

| | Certified | Non-Certified |
|--------------------|-----------|---------------|
| Retirements | 0 | 0 |
| Resignations | 1 | 1 |
| Requests for Leave | 1 | 0 |
| New Hires | 0 | 0 |
| Reduction in Force | 0 | 0 |

- Attended Employee Benefits Quarterly Update

District: Curriculum, Instruction, and Assessment

Including Instructional Technology Applications

- Facilitated continued implementation of District CCSS Plan Year 2.
- Continued Study Island software program for all district grade 3 and 4 students to use both at school and at home.
- Facilitated Technology Committee meeting.
- Facilitated school building level meetings to discuss curriculum, instruction, and assessment.
- Facilitated Mathematics Review school visitations.
- Provided ongoing information regarding Smarter Balanced Assessments.
- Initiated Physical Education Program Review.

Policies

- Implement revised MBOE Policies approved at October 10, 2013 meeting.
- Facilitated implementation of changes to MPS Teacher/Administrator Professional Learning & Evaluation Plan.
- Worked with Board Attorney to draft revision of Resident Students Not Attending Public Schools Policy.

Security

- Continued the implementation of required crisis prevention drills for all schools with emergency management officials.
- Continued the implementation of Tabletop Emergency Procedures Drill preparation.
- Continued to implement Board approved enhanced safety measures.

Building and Grounds

- Continued to implement an alternative work order system.
- Initiated setup up and initial planting at MMS greenhouse.
- Continued work on lunch table issue at Goodwin.

| Maintenance Work Requests | | | | | | |
|---------------------------|----|----|----|-----|-------|------|
| | GW | SE | VN | MMS | Total | |
| Solved | 7 | 16 | 3 | 6 | 32 | 41% |
| Pending | 8 | 9 | 3 | 8 | 28 | 35% |
| Open | 1 | 4 | 7 | 7 | 19 | 24% |
| Total | 16 | 29 | 13 | 21 | 79 | 100% |

Programs

| Study Island Through February 22, 2014 | | | | | | | |
|---|-----------|---------|-----------|---------|-----------|---------|-----------|
| Grade 3 | | | | Grade 4 | | | |
| Math | | Reading | | Math | | Reading | |
| Q* | % Correct | Q* | % Correct | Q* | % Correct | Q* | % Correct |
| 1607 | 51.8 | 528 | 48.2 | 1081 | 50.9 | 1157 | 23.5 |

*Number of questions attempted on grade level

Energy

- Facilitated school building energy committees.
- Continued to facilitate guidelines for after school building use in an effort to reduce energy consumption.
- Monitored use of energy efficient refrigerators to replace classroom use of small refrigerators.
- Initiated monitoring of gas heat & electric energy charges at MMS due to fuel conversion project.
- Implemented with finance and maintenance department common comprehensive energy management system.

Communication

- Provided all staff with an update of Administrative Council items.
- Facilitated two Administrative Council meetings.
- Held monthly Facilities Management Meeting.
- Attended MAC meeting.
- Continued to implement digital take home notices at all schools.
- Attended Hockanum and URSA Superintendents meetings.
- Held Quarterly meeting with Town Manager, Finance Director, and Maintenance Director.

Professional Development

- Supported the continued development of school data teams.
- Implemented District Common Core State Standards as outlined in district plan year two.
- Facilitated Professional Development Committee Meeting.
- Facilitated TEAM Committee Meeting.

Technology Administrative Applications

- Continued implementation of HealthOffice Software.
- Continued implementation of automated system for recording substitutes.
- Continued use of Horizon library system software.
- Continued implementation of Pearson Limelight Inform to track student assessment data to inform instruction.
- Continued implementation of MMS Parent Portal.
- Implementation of School Messenger software program for transportation and school delays/closings to parents/guardians.
- Continued to implement Versatran's school bus routing software.
- Implemented a secure file program for certified staff professional learning and evaluation plan.
- Continued conversation with Bloomboard regarding potential use for certified staff professional learning and evaluation plan.

Other

- Attended CAPSS Legislative Committee meeting.
- Participated in CSDE Conference Call with Commissioner of Education regarding evaluation flexibility.
- Facilitated UCONN Internship Lead Teacher Meeting.
- Attended Learning Focused Supervision Series.
- Attended CAPSS Technology meeting.
- Participated in CAPSS PK-K Superintendents Conference Call.
- Attended District Test Coordinators' Workshop for SBAC.
- Attended CT School Climate Conference.
- Attended RTT Grant & Personalized Learning Think Tank at EASTCONN.
- Attended SBAC Assessment Workshop.
- Attended CAPSS Leadership Development Advisory Committee meeting.

Additional information will be provided upon request by calling 429.3350 or by emailing mboesupt@mansfieldct.org.

Mansfield Public Schools Monthly Memorable Moments

Goodwin School

- Goodwin students continue to challenge themselves on the Trestle Tree during their PE classes. They are feeling very accomplished and proud to show off their newly developed skills. "Mr. Dean! Mr. Dean!"
- Our PTO is collecting supplies for The Backpack Brigade. This is an annual event in which students and their families donate pencils, notebooks, markers etc. The stuffed backpacks then are given to a shelter for children who are in need of school supplies.
- A second PTO project, Square One Art is in full swing. It has become an annual fund-raiser. The students create beautiful drawings in their art class and those drawings are used for the families to order t-shirts, bags, luggage tags, note pads, and more!

Southeast School

- Many of our classes celebrated the 100 Days of School on February 11. In particular, our second grade students completed art projects using 100 items of their choice to complete a display. We saw so many different ways to get to 100 from Legos, and goldfish, to paper flower petals and Popsicle sticks. Classes visited each other and shared their vivid creations.
- Two musically gifted students were honored at a special Connecticut Association of School award ceremony at the Aqua Turf, Southington, in early February. Congratulations to Suzuki Strings players Leonard Schweitzer and Aaron Kaufoed for being recommended by their teachers, Mrs. Vaughn and Mrs. Boyer, respectively, for their outstanding skill. We are so proud of their growth and accomplishments.

Vinton School

- During the month of February, the Kindergarten children at Vinton organize a school wide project for our Mansfield Animal Shelter: buy a valentine for \$1.00 and help shelter animals. They invite each child and staff member to bring in a photo or draw a picture of their animal friend. Animals have included dogs, cats, horses, birds, fish, or any animals that may be special to them. The Kindergartners help cut and sort the valentines. There are special "In loving memory" valentines. 100% of the money raised goes to Friends of the Mansfield Animal Shelter (FOMAS.) This is a nonprofit group that helps the animals stay at the shelter be more comfortable by contributing towards vet bills, spay/neuter, grooming, specialized feeding, improved bedding/cages, and facility improvements. Through Vinton's efforts, improvements such as expanded cat cages and dog runs have been possible. Over the past 12 years, the Kindergartners have helped Vinton raise, \$400.00 to \$600.00 yearly, (approximately \$6,000.) All proceeds going to the Mansfield Animal Shelter. In late Spring, Noranne Nielsen, Mansfield Animal Control Officer, comes to visit and thank the Kindergartners. She, also, does an educational program about pet care, pet responsibility, and keeping safe around animals. Mansfield Shelter animals have true friends at Vinton!

Vinton School continued

- Our February 20th Winter Concert featured the Vinton 1st and 2nd Grade Junior Choir. One of the catchiest tunes was a song entitled "I Love Peanuts!" Despite all the disruptions from snow days and delays, the Choir was able to get in plenty of rehearsals, and the show was well attended by Vinton families.

Mansfield Middle School

- The 2013-2014 girls basketball team finished the season with a record of 13 wins and 1 loss, including two victories in the semi-finals and finals of the NEMSAC tournament. The team ended the season with a back-to-back league championship. Ms. Betsy Parker and Mrs. Kate Dale coached the team through the successful season.
- The 2013-2014 Mansfield Middle School boys basketball team enjoyed another successful season. Led by Mr. Ted Buck and Mr. Ken Rawn the boys played hard throughout the season. With a record of 9-5 which earned the team a spot in the NEMSAC tournament. The team won a thrilling semi-final game against Willington but lost a hard fought game against Lebanon in the Finals to finish as runners-up.
- As we have usually done before the February break, MMS held several special events during the week of February 10-14. It was Spirit Week with a different theme to dress for each day. To promote community awareness Student Council also sponsored a food drive. The goal is to collect over 1,000 items for the WAIM food pantry.
- State Representative Gregg Haddad made his annual visit to MMS. He presented official citations from the General Assembly recognizing fourteen excellent entries he received from 8th graders who submitted essays of 750-1000 words describing their proposal for a new law or changes to a current law.
- Mansfield Middle School students showed tremendous mental toughness as they competed in the Regional Science Bowl Competition at UCONN. The Mansfield team showed great resiliency by coming back to beat a team that they had lost to earlier in the day. Congratulations to Frederick Huang, Michael Lin, Nicolas Martinez, Peter Tomanelli, John Zhou, and Mr. & Mrs. Perkins for taking home first place in the Middle School Science Bowl Competition.

Upcoming Events in March:

Please join us at any/all of these events

| GW | SE | VN |
|--|--|--|
| Tropical Reading Day 3/7/14 | PTO Meeting 3/3/14 7:00pm | Bolton Ice Palace 4 th Gr. 3/12/14 |
| Zumba PTA Fundraiser 3/7/14 6:30pm | Bolton Ice Palace 4 th Gr. 3/12/14 | GW, SE, & VN Parent/Staff Basketball Tournament at E.O. Smith 3/20/14 6:30-7:45pm |
| Bolton Ice Palace 4 th Gr. 3/12/14 | Science Fair 3/12/14 6:30pm | |
| PTO Meeting 3/17/14 6:30pm | GW, SE, & VN Parent/Staff Basketball Tournament at E.O. Smith 3/20/14 6:30-7:45pm | |
| GW, SE, & VN Parent/Staff Basketball Tournament at E.O. Smith 3/20/14 6:30-7:45pm | | |
| Town Meeting 3/27/14 2:30pm | | |
| MMS | | |
| String Groups at Senior Center Luncheon 3/5/14 | MMSA Meeting 3/5/14 7:00pm | Middle School History Day 3/6/14 6:00pm |
| Eastern Regional Middle School Music Festival 3/7-3/8/14 | Spring Country Dance 3/11/14 | District History Day 3/22/14 |
| Science Presentations Gr. 5 3/28/14 12:30pm | | |
| District | | |
| Board Meeting 3/13/14 7:30pm | Prof. Development Day: No School 3/31/14 | |

Link to District Four Schools Calendar of Events:

<http://www.mansfieldct.gov/content/3607/5184/7573.aspx>

or:

Go to <http://www.mansfieldct.gov/mboe> (Board of Ed. website)

- 1) In the middle at the bottom is a link called "Calendar of Events"
- 2) Click on that link and it will bring you to the calendar.

EXPENDITURES ACCOUNTS PAYABLE AND BUDGET

Government: Town of Mansfield, Connecticut

Year end: June 30, 2013

UNDERSTANDING OF INTERNAL CONTROL DESIGN

The following individuals are involved in this process:

Cheryl Decker – Finance Clerk (Regional School District #19)
Donna Neborsky – Finance Clerk (Town)
Keri Rowley – Accounting Manager
Cherie Trahan – Finance Director

Purchase Orders are completed by the various departments within the Town. For purchases < \$5,000 the various department heads have the authority to sign and authorize the purchase of the goods on the purchase order. For purchases >= \$5,000 the Director of Finance needs to review and sign off, either electronically or manually, on the purchase order authorizing the purchase of the goods or service. The Finance Department then reviews the purchase orders for availability of funds, required signatures, and the purchase to ensure it is appropriate. There is no bid policy.

The Town has an ethics policy that includes policies regarding conflicts of interest. This is part of their personnel policies when hiring a new employee.

Each individual Department head is responsible for ensuring that they do not over-expend their budgets. Additionally the Director of Finance reviews the budget to actual results quarterly. Financial statements, summaries, and budget comparisons for every entity involved within the Town are presented in a quarterly packet to the Finance Committee. They in turn review these documents during the committee meetings and make recommendations/comments accordingly. This is recorded in the minutes of the meeting for the Finance Committee.

The Town does have policies that require purchases in excess of \$7,500 to be awarded on a best value criteria and that purchases in excess of \$10,000 for professional services require bidding. Department heads bring items to the Director of Finance's attention that they are aware should be going out to bid. Any items that are not brought to the attention of the Director of Finance by Department heads would be caught during the purchase order approval process. The Director of Finance approves all PO's greater than \$5,000 and therefore would catch anything greater than \$7,500 that should go out to bid before a commitment to purchase is made.

The ordering department will receive the goods and approve the payment by supplying the Finance Department with a white copy of the PO to authorize a partial payment or the pink copy of the PO to authorize a full payment. If there is no PO there is an invoice payment voucher completed attached with a documenting receipt.

Finance receives the invoices directly and the finance clerks review the invoice against the ordered goods and the purchase order from the department head documenting the receipt of goods. Review is documented when they key the batches. After the invoice, the purchase order, and the receipt documentation are matched. Cheryl (Regional School District #19) and Donna (Town) will enter the payment information into the General Ledger.

During the week each AP batch is posted to a general ledger control sheet, the batches are also entered into the general ledger itself. It is posted to the GL a second time by Accounting Manager, Keri, each week.

In May or June, a closing schedule memo is sent to each department head to remind them of yearend procedures. It details cut-off procedures and dates. Also each June a check run schedule is sent to each department for the upcoming fiscal year which includes cut off dates and check run dates. Any invoices received by the 2nd week of July in Finance, that are June 30th or before, are processed as usual and paid in a "clean-up" check run. Any invoices received after the 2nd week of July are processed through the system in the new year and an excel worksheet is used to keep track of the prior year expenses. A journal entry is then done for 06/30/12 and a reversing entry is done for 07/01/12. The accrual is recorded by the Accounting Manager and is then reviewed by Cherie. The journal entry review process is done after mid-July. Transactions are reviewed until the first week of August.

Quarterly the Director of Finance reviews a budget to actual report, and also Quarterly the finance department supplies the Board of Finance with a review package that includes a budget to actual report which they review. This review is documented in the minutes of the Board of Finance.

Part of the posting process is to balance the open PO listing to the encumbrance total on the General Ledger. Each quarter, the open PO listing is compared to the actual PO's on file and to the encumbrance total on the General Ledger. Informal review is done by the Accounting Manager, Keri.

The Town of Mansfield does have a process in place where the Director of Finance will authorize purchasing cards for new Department Heads. Department Heads may request a purchasing card for their staff from the Administrator (Budget Analyst- Alicia). The card is issued with policies and procedures. There is no limit on the amount of purchase cards issued. Each cardholder goes over the procedures with the Administrator and must sign that they have read the procedures and agree to the terms before the card is released to them. Any one that has been issued a purchasing card through JP Morgan has access to use their card. There are currently 98 cardholders. (Note: Not all cardholders use their cards). Most cardholders have a \$1,000 maximum single purchase limit and \$5,000 monthly maximum card limit. Per the direction of the Finance Director, a few Department Heads have a \$5,000 maximum single purchase limit and a \$25,000 monthly maximum card limit. Per request of the Department Head, certain staff in their department may have higher single purchase limits.

The Administrator receives and reviews the monthly statement from JP Morgan. Cardholders go into the JP Morgan SDOL system to review and code their purchases. They print off an expense report, attach their receipts and sign the report. Their department head then reviews and signs the expense report. Expense reports are then turned into the Administrator who will do a quick review of the reports. If the expense reports and/or receipts are missing, the cardholders privileges are suspended until the report is complete. The Administrator prints a summary report for all purchases and generates a journal entry from the summary report. The expense reports are then turned over to the Finance Clerks who will do a more thorough review of each receipt with the expense report. If any additional information is needed, the Finance Clerks contact the cardholders directly.

BlumShapiro

Accounting | Tax | Business Consulting

To the Town Council
Town of Mansfield, Connecticut

We have audited the financial statements of the governmental activities, the business-type activities, each major fund and the aggregate remaining fund information of the Town of Mansfield, Connecticut, for the year ended June 30, 2013. Professional standards require that we provide you with information about our responsibilities under generally accepted auditing standards (and, if applicable, *Government Auditing Standards* and OMB Circular A-133), as well as certain information related to the planned scope and timing of our audit. We have communicated such information in our letter to you dated June 10, 2013. Professional standards also require that we communicate to you the following information related to our audit.

Qualitative Aspects of Accounting Practices

Management is responsible for the selection and use of appropriate accounting policies. The significant accounting policies used by the Town of Mansfield, Connecticut, are described in Note 1 to the financial statements. Management has adopted the provisions of GASB Statement No. 61, *The Financial Reporting Entity: Omnibus*, GASB Statement No. 62, *Codification of Accounting and Financial Reporting Guidance Contained in Pre-November 1989 FASB and AICPA Pronouncements*, and GASB Statement No. 63, *Financial Reporting of Deferred Outflows of Resources, Deferred Inflows of Resources and Net Position*. We noted no transactions entered into by the governmental unit during the year for which there is a lack of authoritative guidance or consensus. All significant transactions have been recognized in the financial statements in the proper period.

Accounting estimates are an integral part of the financial statements prepared by management and are based on management's knowledge and experience about past and current events and assumptions about future events. Certain accounting estimates are particularly sensitive because of their significance to the financial statements and because of the possibility that future events affecting them may differ significantly from those expected. There were no sensitive estimates significant to the financial statements.

The financial statement disclosures are neutral, consistent and clear. There were no sensitive disclosures affecting the financial statements.

Difficulties Encountered in Performing the Audit

We encountered no significant difficulties in dealing with management in performing and completing our audit.

Corrected and Uncorrected Misstatements

Professional standards require us to accumulate all known and likely misstatements identified during the audit, other than those that are trivial, and communicate them to the appropriate level of management. Management has corrected all such misstatements. In addition, none of the misstatements detected as a result of audit procedures and corrected by management were material, either individually or in the aggregate, to each opinion unit's financial statements taken as a whole.

Disagreements with Management

For purposes of this letter, professional standards define a disagreement with management as a financial accounting, reporting or auditing matter, whether or not resolved to our satisfaction, that could be significant to the financial statements or the auditors' report. We are pleased to report that no such disagreements arose during the course of our audit.

Management Representations

We have requested certain representations from management that are included in the management representation letter dated December 18, 2013.

Management Consultations with Other Independent Accountants

In some cases, management may decide to consult with other accountants about auditing and accounting matters, similar to obtaining a "second opinion" on certain situations. If a consultation involves application of an accounting principle to the governmental unit's financial statements or a determination of the type of auditor's opinion that may be expressed on those statements, our professional standards require the consulting accountant to check with us to determine that the consultant has all the relevant facts. To our knowledge, there were no such consultations with other accountants.

Other Audit Findings or Issues

We generally discuss a variety of matters, including the application of accounting principles and auditing standards, with management each year prior to retention as the governmental unit's auditors. However, these discussions occurred in the normal course of our professional relationship and our responses were not a condition to our retention.

Town of Mansfield, Connecticut
Page Three

Other Matters

With respect to the supplementary information accompanying the financial statements, we made certain inquiries of management and evaluated the form, content and methods of preparing the information to determine that the information complies with accounting principles generally accepted in the United States of America, the method of preparing it has not changed from the prior period, and the information is appropriate and complete in relation to our audit of the financial statements. We compared and reconciled the supplementary information to the underlying accounting records used to prepare the financial statements or to the financial statements themselves.

This information is intended solely for the use of the Town Council and management of the Town of Mansfield, Connecticut, and is not intended to be and should not be used by anyone other than these specified parties.

Blum, Shapiro & Company, P.C.

West Hartford, Connecticut
December 18, 2013

MEMO - COMMUNICATION WITH THOSE CHARGED WITH GOVERNANCE

To: Finance Committee, Town of Mansfield, Connecticut
From: Vanessa Rossitto, CPA, Audit Partner
Blum Shapiro & Company, P.C.
Date: July 9, 2013
Re: Auditing Standard No 114, The Auditor's Communication with
Those Charged with Governance

The American Institute of Certified Public Accountants (AICPA) issued Statement on Auditing Standard (SAS) No. 114 entitled "The Auditor's Communication with Those Charged with Governance." This statement defines who is charged with governance as well as the information that should be communicated to them. For purposes of our audits we have concluded that the members of the Finance Committee are charged with the governance of the Town.

This standard stresses the importance of two-way communication and requires certain communications to be discussed prior to the audit. Summarized below is the information that we are required to communicate to those charged with governance.

Objective

The objective of our audit is the expression of opinions as to whether your basic financial statements are fairly presented, in all material respects, in conformity with accounting principles generally accepted in the United States of America and to evaluate the presentation of the supplementary information in relation to the financial statements as a whole and to report on whether the supplementary information is fairly stated, in all material respects, in relation to the financial statements as a whole.

The objective also includes reporting on:

- Internal control related to the financial statements and compliance with laws, regulations, contracts and grant agreements, noncompliance with which could have a material effect on the financial statements in accordance with *Government Auditing Standards*.
- Internal control related to major programs and an opinion (or disclaimer of opinion) on compliance with laws, regulations and the provisions of contracts or grant agreements that could have a direct and material effect on each major program in accordance with Single Audit Act Amendments of 1996; OMB Circular A-133, *Audits of States, Local Governments, and Non-Profit Organizations*; and the Connecticut State Single Audit Act.

Our audit will be conducted in accordance with auditing standards generally accepted in the United States of America; the standards for financial audits contained in *Government Auditing Standards*, issued by the Comptroller General of the United States; the Single Audit Act Amendments of 1996 and the provisions of OMB Circular A-133, *Audits of States, Local Governments and Non-Profit Organizations*; and the Connecticut State Single Audit Act and will include tests of accounting records, a determination of major program(s) in accordance with OMB Circular A-133 and the Connecticut State Single Audit Act and other procedures we consider necessary to enable us to express such opinions and to render the required reports. If our opinions on the financial statements or the Single Audit compliance opinions are other than unqualified (unmodified), we will discuss the reasons with you in advance. If, for any reason, we are unable to complete the audit or are unable to form or have not formed opinions, we may decline to express opinions or to issue a report.

In connection with our audit of the Town's financial statements, we will also communicate any recommendations to improve the Town's internal controls.

Our Responsibility

Our responsibility under the aforementioned standards is to express opinions on the financial statements that have been prepared by management with the oversight of those charged with governance. The audit of the financial statements does not relieve management or those charged with governance of their responsibilities.

An audit is designed to provide reasonable, but not absolute assurance. Because of the inherent limitations of an audit, combined with the inherent limitations of internal control, and because we will not perform an examination of all transactions, there is a risk that material misstatements or noncompliance may exist and not be detected by us, even though the audit is properly planned and performed in accordance with auditing standards generally accepted in the United States of America.

In addition, an audit is not designed to detect immaterial misstatements or violations of laws or governmental regulations that do not have a direct and material effect on the financial statements or major programs. However, we will inform the appropriate level of management of any material errors or any fraudulent financial reporting or misappropriation of assets that we discover. We will also inform the appropriate level of management of any violations of laws or governmental regulations that come to our attention, unless clearly inconsequential, and of any material abuse that comes to our attention. We will include such matters in the reports required for a Single Audit.

Our responsibility as auditors is limited to the period covered by our audit and does not extend to any other periods.

Audit Scope and Materiality

The scope of our audit of the financial statements is designed to provide reasonable assurance that the Town's financial statements are free of material misstatements, whether caused by errors or fraud. Our consideration of materiality is a matter of professional judgment and is influenced by our perception of the needs of users of financial statements.

Audit Approach

The nature, timing and extent of our contemplated procedures for significant accounts are based on a risk assessment of the likelihood of material misstatements occurring in those accounts. We contemplate an audit strategy based on reliable effective controls. We plan to execute audit procedures to substantiate account balances primarily as of or near year-end.

In conducting our audit, we maintain an awareness of the possibility that errors, fraud or illegal acts (as defined in authoritative professional literature) may have occurred that could have a material and direct effect on the financial statements. Effective internal controls are designed to prevent or detect errors, fraud or illegal acts; however, it is possible that they may nevertheless occur.

We will report to those charged with governance and management any such situations which come to our attention even though they might not be material in relation to the financial statements taken as a whole.

Independence

There are no relationships between any of our representatives and the Town that in our professional judgment impair our independence.

Other Services

In addition to the audits of the above entities, we will also perform the following services and/or issue the following reports:

- Board of Education Form ED001 Agreed Upon Procedures

Responsibilities under Auditing Standards Generally Accepted in the United States of America

Management's responsibilities include:

- Management is responsible for the financial statements and all accompanying information, as well as representations contained therein.
- Management is also responsible for identifying government award programs and understanding and complying with the compliance requirements, and for preparation of the schedule of expenditures of federal awards and for the preparation of the schedule of expenditures of state assistance.
- Management is responsible for establishing and maintaining effective internal controls, including internal controls over compliance.
- Management is also responsible for the selection and application of accounting principles
- Management is responsible for the design and implementation of programs and controls to prevent and detect fraud and for informing us about all known or suspected fraud or illegal acts affecting the government.

Auditor's responsibilities include:

- Understanding the internal control structure to evaluate risk
- Performing tests, analysis and reviews of financial statements and underlying support
- Planning and performing the audit to obtain reasonable assurance that the financial statements are free of material misstatement, whether caused by error or fraud
- Evaluating fairness of presentation of financial statements in conformity with the Accounting Principles Generally Accepted in the United States of America (GAAP) in all material respects

Audit Areas of Focus

- Cash
- Investments
- Receivables and revenues
- Capital Assets
- Payables, accruals, budget and expenditures
- Payroll expenditures
- Debt
- Insurance and Self Insurance
- Grants – Federal and State Single Audit

Engagement Timing

- Our initial planning for the year-end audit will be performed during July 2013. Our focus will be on documentation of the internal controls as required by auditing standards, fraud inquiry interviews with management and key personnel, preparation of certain confirmations some overall analytical procedures and audit fieldwork as applicable to the federal and state single audits and procedures performed relevant to the tax collector's and tax assessor's offices.

○ Audit Timing:

| | |
|--|----------|
| Commencement of Fieldwork | 10/7/13 |
| End of Fieldwork | 10/18/13 |
| Issuance of Draft Financial Statements | 11/22/13 |
| Client Approval of Draft Statements | 11/29/13 |
| Issuance of Financial Statements | 12/6/13 |
| Issuance of Management Letter, if applicable | 12/6/13 |
| Post Audit Meeting with Management | TBD |

Engagement Team

An engagement team consisting of the following individuals will be responsible for audit, and other services, including contact information to reach us:

- Vanessa Rossitto, Audit Partner
Direct Line: 860-561-6824
Email: vrossitto@blumshapiro.com
- Joe Kask, Concurring Audit Partner
Direct Line: 860-570-6372
Email: jkask@blumshapiro.com
- Michael Popham, Audit & Accounting Manager
Direct Line: 860-570-6391
Email: mpopham@blumshapiro.com

Other Communications

At the completion of our audit we will communicate in writing the following information related to our audit:

- Management judgments and significant sensitive accounting estimates
- Significant accounting policies
- The adoption of new accounting principles or changes in accounting principles
- Significant audit adjustments (recorded and unrecorded)
- Disagreements with management about auditing, accounting or disclosure matters
- Difficulties encountered in performing the audit
- Irregularities and illegal acts
- Consultation by management with other auditors
- Matters affecting independence of auditors
- Material weaknesses, significant deficiencies and control deficiencies

Knowledge of Fraud

- If management or those charged with governance has any knowledge of fraud or potential fraud, this information needs to be communicated to us. As part of the audit process, we will be meeting with management to discuss fraud risks and any further issues.
- It is estimated that U.S. businesses, including municipalities, lose up to 7% of annual revenue to fraud. Municipalities are especially vulnerable due to the large amounts of cash collected in the tax collector's office, in addition to decentralized cash collection points such as transfer stations, golf courses, recreation programs, etc.
- The Forensic Accounting group of BlumShapiro provides Fraud Risk Assessment services. The objectives of a Fraud Risk Assessment are to gather perceptions of fraud risk and to promote fraud awareness and prevention across the entity. The Fraud Risk Assessment process starts with the gathering of information on the population of fraud risks that may apply to the entity. This includes consideration of various types of possible fraud schemes, scenarios and opportunities to commit fraud. This information is then used to assess the relative likelihood and potential significance of identified fraud risk based on historical information, known fraud schemes and interviews with staff and management. A report is prepared documenting fraud risk within the entity and setting

forth suggested policies and procedures to help prevent and detect fraud. If you are interested a Fraud Risk Assessment or would like additional information, we would be happy to discuss the details of this service with you.

Industry Developments – Current Year Accounting Standards

- **GASB Statement No. 61 - The Financial Reporting Entity: Omnibus.** This Statement is an amendment to GASBS No. 14 and No. 34. The Statement is designed to improve financial reporting for governmental financial entities to better meet user needs and address reporting entity issues that have come to light since the issuance of those Statements in 1991 and 1999, respectively.

The requirements contained in the Statement, which arise primarily from the reexamination of Statement 14, augment the relevance of financial statements issued by financial reporting entities by improving the related guidance for including, presenting, and disclosing information about component units and equity interest transactions.

- **GASB Statement No. 63 - Financial Reporting of Deferred Outflows of Resources, Deferred Inflows of Resources, and Net Position.** This Statement provides financial reporting guidance for deferred outflows of resources and deferred inflows of resources. Concepts Statement No. 4, *Elements of Financial Statements*, introduced and defined those elements as a consumption of net assets by the government that is applicable to a future reporting period, and an acquisition of net assets by the government that is applicable to a future reporting period, respectively. Previous financial reporting standards do not include guidance for reporting those financial statement elements, which are distinct from assets and liabilities.

Concepts Statement 4 also identifies net position as the residual of all other elements presented in a statement of financial position. This Statement amends the net asset reporting requirements in Statement No. 34, *Basic Financial Statements—and Management's Discussion and Analysis—for State and Local Governments*, and other pronouncements by incorporating deferred outflows of resources and deferred inflows of resources into the definitions of the required components of the residual measure and by renaming that measure as net position, rather than net assets.

Industry Developments – Future Accounting Standards

- **GASB Statement No. 65 – Items Previously Reported as Assets and Liabilities.** This Statement establishes accounting and financial reporting standards that reclassify, as deferred outflows of resources or deferred inflows of resources, certain items that were previously reported as assets and liabilities and recognizes, as outflows of resources or inflows of resources, certain items that were previously reported as assets and liabilities.

Concepts Statement No. 4, *Elements of Financial Statements*, introduced and defined the elements included in financial statements, including deferred outflows of resources and

deferred inflows of resources. In addition, Concepts Statement 4 provides that reporting a deferred outflow of resources or a deferred inflow of resources should be limited to those instances identified by the Board in authoritative pronouncements that are established after applicable due process. Prior to the issuance of this Statement, only two such pronouncements have been issued. Statement No. 53, *Accounting and Financial Reporting for Derivative Instruments*, requires the reporting of a deferred outflow of resources or a deferred inflow of resources for the changes in fair value of hedging derivative instruments, and Statement No. 60, *Accounting and Financial Reporting for Service Concession Arrangements*, requires a deferred inflow of resources to be reported by a transferor government in a qualifying service concession arrangement. This Statement amends the financial statement element classification of certain items previously reported as assets and liabilities to be consistent with the definitions in Concepts Statement 4.

This Statement also provides other financial reporting guidance related to the impact of the financial statement elements deferred outflows of resources and deferred inflows of resources, such as changes in the determination of the major fund calculations and limiting the use of the term *deferred* in financial statement presentations.

The provisions of this Statement are effective for financial statements for periods beginning after December 15, 2012. Earlier application is encouraged.

- **GASB Statement No. 67 - Financial Reporting for Pension Plans—an amendment of GASB Statement No. 25.** The objective of this Statement is to improve financial reporting by state and local governmental pension plans. This Statement results from a comprehensive review of the effectiveness of existing standards of accounting and financial reporting for pensions with regard to providing decision-useful information, supporting assessments of accountability and interperiod equity, and creating additional transparency. This Statement replaces the requirements of Statements No. 25, *Financial Reporting for Defined Benefit Pension Plans and Note Disclosures for Defined Contribution Plans*, and No. 50, *Pension Disclosures*, as they relate to pension plans that are administered through trusts or equivalent arrangements (hereafter jointly referred to as trusts) that meet certain criteria. The requirements of Statements 25 and 50 remain applicable to pension plans that are not administered through trusts covered by the scope of this Statement and to defined contribution plans that provide postemployment benefits other than pensions.

This Statement is effective for financial statements for fiscal years beginning after June 15, 2013. Earlier application is encouraged.

- **GASB Statement No. 68 Accounting and Financial Reporting for Pensions—an amendment of GASB Statement No. 27.** The primary objective of this Statement is to improve accounting and financial reporting by state and local governments for pensions. It also improves information provided by state and local governmental employers about financial support for pensions that is provided by other entities. This Statement results from a comprehensive review of the effectiveness of existing standards of accounting and financial reporting for pensions with regard to providing decision-useful information, supporting assessments of accountability and interperiod equity, and creating additional

transparency.

This Statement replaces the requirements of Statement No. 27, *Accounting for Pensions by State and Local Governmental Employers*, as well as the requirements of Statement No. 50, *Pension Disclosures*, as they relate to pensions that are provided through pension plans administered as trusts or equivalent arrangements (hereafter jointly referred to as trusts) that meet certain criteria. The requirements of Statements 27 and 50 remain applicable for pensions that are not covered by the scope of this Statement.

This Statement is effective for fiscal years beginning after June 15, 2014. Earlier application is encouraged.

Areas of Concerns

- If you have any concerns that you would like to discuss with Blum Shapiro, we will make ourselves available either by phone or in person to discuss such concerns.

APPLICATION REFERRAL
Mansfield Planning and Zoning Commission

Item #12

- TO:
- Public Works Dept. (c/o Asst. Town Engineer)
 - Health Officer (c/o R. Miller, EHHD)
 - Design Review Panel
 - Committee on Needs of Persons with Disabilities
 - Fire Marshal
 - Traffic Authority
 - Recreation Advisory Committee
 - Open Space Preservation Committee
 - Parks Advisory Committee
 - Town Council
 - Conservation Commission
 - Agricultural Committee
 - Sustainability Committee

The Planning and Zoning Commission has received a Regulation Change Application and will consider the application at a Public Hearing/regular meeting on July 7, 2014. Please review the application and reply with any comments to the Planning Office before July 1, 2014. For more information, please contact the Planning Office at 429-3330.

APPLICATION INFORMATION

Applicant: East Brook F, LLC

Owner: East Bbrook F, LLC

Agent(s): Susan A. Hays, Updike, Kelly & Spellacy, P.C.

Proposed Use: Zoning Regulation Amendment, PZC File # 1326

Location: 95 Storrs Road

Zone Classification: PB-1 (Professional Office 1)

Other Pertinent Information:

- File is available in the Planning and Zoning Office for your review.
-
-
-

Signed: Jessie D. Shea

Date: 6/10/14

APPLICATION TO AMEND THE ZONING REGULATIONS
(See Article XIII of the Zoning Regulations)

File # 1326
Date 5-15-14

1. APPLICANT East Brook F LLC
(Please PRINT)
Street Address c/o Updike, Kelly & Spellacy, PC Telephone (860) 548-2600
Town 100 Pearl Street, Hartford Zip Code 06103

Susan A. Hays, agent
(Signature)

2. AGENT who may be contacted directly regarding this application:
Susan A. Hays Updike, Kelly & Spellacy, P.C.
Name (please PRINT) 100 Pearl Street, Hartford, CT 06103
Address
(860) 548-2640
Telephone number

3. List article(s)/section(s) of Zoning Regulations to be amended:
(Consideration should be given to interrelated sections that must also be modified to ensure consistency within the Regulations)
Article 6, Section B.23;q.2; Article 8 Schedule of Dimensional Requirements and Notes;
Article 10, Section D.6; Article 10, Section D.20 (new); Article 10, Section
H.5.e

4. Exact wording of proposed amendment(s) – use separate sheet if necessary:
See Attached

5. Statement of Justification addressing approval considerations of Article XIII, Section C and
(1) substantiating the proposal's compatibility with Mansfield's Plan of Development;
(2) the reasons for the proposed amendment (including any circumstances or changed conditions that justify the proposal and how the amendment would clarify or improve the Zoning Regulations);
(3) the effect the change would have on the health, safety, welfare and property values of Mansfield residents
(use separate sheet if necessary)
See Attached

6. The following have been submitted as part of this application:

 X Application fee
 N/A Reports or other information supporting the proposed amendment (list or explain):

(end of applicant's section)

* * * * *

(for office use only)

Date application was received by PZC: _____ Fee submitted _____

Date of Public Hearing _____ Date of PZC action _____

Action: Approved _____ Effective _____

Denied _____

Comments:

Chairman, Mansfield Planning & Zoning Commission

Date

PROPOSED AMENDMENTS TO MANSFIELD ZONING REGULATIONS

1. **Article Six, Section B. 23. q. 2.:** Delete the first three sentences of the subsection and replace with the following: "The Commission shall have the authority to require up to a 75 foot wide landscaped buffer area where a site abuts a more restrictive zone or an existing residential use. In addition, the Commission shall have the authority to require a landscaped buffer area when a commercial, industrial, multi-family or other non-residential use abuts a historic structure or a cemetery. The width of the buffer for commercial, industrial, multi-family or other non-residential use that abuts a historic structure or cemetery shall be determined with reference to the existing physical characteristics of the property, such as topography, adjacent flood hazard, the location of existing structures, existing non-conforming lot characteristics, the nature of the activity or the nature of the landscaping plan but in no event may the Commission require more than a 75 foot wide buffer. Buffers for a commercial, industrial, multi-family or other non-residential use that abuts an environmentally sensitive feature such as a river, brook, pond or wetland area shall be as determined by the Inland Wetland Agency."

2. **Article 8:** Modify the chart in Article 8 Schedule of Dimensional Requirements to replace the row regarding PB-1, PB-2, PB-3, PB-4, PB-5 and I with the row shown on Exhibit A attached hereto. Add a new Note 22 to Notes of Schedule of Dimensional Requirements as follows:

22. If a property in one of the listed zones abuts a residentially zoned property, then the yard that is adjacent to such residentially zoned property shall meet the following applicable requirement: Front Yard – 100 feet; Side Yard – 50 feet; Rear Yard – 50 Feet.

3. **Article 10, Section D. 6.**

Delete Subsection V and modify Subsection U to read as follows:

| | | |
|---|---|---|
| U | Retail, personal services, restaurant and other similar uses within a building or buildings on a site that contains not less than 250,000 SF of gross floor area in all buildings | Four spaces per 1,000 sq. ft. of net retail floor area. Interior pedestrian walkways between tenant spaces shall not be included as net retail floor area |
|---|---|---|

4. **Article 10, Section D.** Add new Subsection 20 as follows: **Deferred Construction.** In a commercial development in a Planned Business Zone, an applicant may defer construction of not more than ten percent (10%) of the required parking spaces provided it indicates on its site plan the location where such parking shall be constructed should actual use indicate a need for such parking spaces and provided further that it provides a parking study as part of its application to demonstrate that the deferral of construction of

such spaces will not adversely impact the operation of the development. If, at any time, the zoning enforcement officer determines that the deferred parking spaces (or a portion thereof) are required for the operation of the property in a safe manner, the owner shall construct such deferred parking spaces within a reasonable period of time of receipt of written notice from the zoning enforcement officer and, in any case, not less than 180 days from receipt of such notice.

5. Article 10, Section H.5.e – Delete the existing provision and replace with the following: If any excavation shall take place within fifty (50) feet from a property line, the applicant shall give notice of the application to the owner(s) of property from which such fifty (50) feet is measured within seven (7) days following the Commission's receipt of the application. Said notification, which shall be sent by Certified Mail, shall include the applicant's Statement of Use and mapping that depicts areas of proposed activity. The notice shall also reference the fact that the complete application is available for review in the Mansfield Planning Office.

EXHIBIT A

Article Eight
SCHEDULE OF DIMENSIONAL REQUIREMENTS

| Zone | Minimum Lot Area/Acres See Notes (3)(4)(18) | Minimum Lot Frontage/FT See Notes (4)(6)(7)(13)(16) | Min. Front Setback Line (in Feet) See Notes (4)(8)(9)(15)(16)(17)(21) | Min. Side Setback Line (In Feet) See Notes (4)(10)(11)(15)(16)(17)(21) | Min. Rear Setback Line (In Feet) See Notes (4)(15)(16)(17)(21) | Maximum Height See Note (14)(17) | Maximum Building Ground Coverage (17) |
|--|--|--|--|---|--|-------------------------------------|--|
| PB-1, PB-2, PB-3, PB-4, PB-5, I: See Note (1) | See Note (5) | 300 | 26 (See Note 22) | 16 on at least one side; other side may be zero; for buildings with a height in excess of 30 feet one side yard must be at least 26 (See Note 22) | 16; for buildings with a height in excess of 30 feet rear yard must be 26 feet (See Note 22) | 40 (see Note 19) | (PB-1) 25% 20% |

STATEMENT OF JUSTIFICATION

As the Commission is aware, the decision on the application of East Brook F LLC ("East Brook") for the expansion of the East Brook Mall was appealed by an adjacent property owner. That appeal was decided in favor of the appellant and the judge in the case ordered that a new hearing be held on the application with proper notice being given. East Brook is prepared to submit plans for a new hearing on the Michael's expansion. However, in the time between the approval of the original application and the judge's decision, a case, called MacKenzie v. Planning and Zoning Commission of the Town of Monroe, was decided by the Connecticut Appellate Court that impacts the application. The defendants in the MacKenzie case did not seek further review in the Supreme Court. Therefore, it is binding precedent.

As the Commission may be aware, the MacKenzie case essentially held that a regulation that purports to vest in a planning and zoning commission the authority to waive compliance with (or to vary or modify the requirements of) a regulation that is otherwise applicable to a particular land use application is unauthorized by the Connecticut General Statutes and is invalid. When approving the East Brook application for the Michael's expansion, the Commission did so utilizing regulatory provisions that could be considered waivers. Under MacKenzie, those actions would now be deemed invalid. Thus, in order to allow for the approval of the plans as presented and as constructed, certain provisions of the Mansfield Zoning Regulations need to be modified.

In this application, the Applicant has addressed as few of the regulations as is possible to enable the Commission to re-approve the Michael's expansion application. The Applicant understands that the Zoning Regulations are currently undergoing a comprehensive review and that addressing all of the issues raised by MacKenzie will be a part of that process. However, the timing of that process will not fit in with the timing that will likely be required by the court on the remand of this case. We have reviewed the Zoning Regulations with staff and counsel and have made the minimal changes required to address the issues while also staying true to the assumed intent of the provisions being modified and retaining, to the extent possible, the particular powers provided in those provisions.

These modifications are needed so that the Zoning Regulations can comply with the law as it now stands. As they are not significant substantive changes to the Zoning Regulations but a reworking of existing regulations or codification of intent and past practices, we believe that the proposed modifications, as with the existing Zoning Regulations, are compatible with the Mansfield Plan of Development and that the changes would not impact the health, safety, welfare or property values of the Mansfield residents. Rather, the modifications will continue to allow the orderly development of property in Mansfield in substantially the same manner as currently prevails.

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Mansfield Transfer Station Fees

| Items | Fees |
|------------------------------------|---------|
| Trash - one 30-35 gallon bag | \$3.50 |
| Trash - one 30-35 gallon can | \$7.00 |
| Trash - 1 cubic yard pickup | \$35.00 |
| Bulky waste - per cubic yard | \$30.00 |
| Examples: | |
| Queen-size mattress & box springs | \$30.00 |
| Single-size mattress & box springs | \$15.00 |
| Three-seat sofa | \$30.00 |
| Stuffed chair | \$15.00 |
| Dining room set | \$12.00 |
| Dining room chair | \$2.00 |
| Three drawer Bureau | \$10.00 |
| Coffee table | \$3.00 |
| Night table | \$2.00 |
| Four shelf bookcase | \$10.00 |
| Floor or table lamp | \$2.00 |
| Stumps - per cubic yard | \$30.00 |
| Commercial brush - per cubic yard | \$25.00 |
| Residential brush - per cubic yard | \$10.00 |
| Includes Christmas trees | \$5.00 |
| Refrigerator | \$12.00 |
| Air conditioner | \$12.00 |
| Dehumidifier | \$12.00 |
| Microwave oven | \$3.00 |
| Scrap metal - per cubic yard | \$3.00 |

| Items | Fees |
|---|-----------|
| Lawn mower | \$3.00 |
| Washing machine | \$3.00 |
| Clothes dryer | \$3.00 |
| Tire - passenger | \$2.00 |
| Tire - large truck (off rim) | \$8.00 |
| Tire - large truck (on rim) | \$20.00 |
| Tires - large off road | \$25.00 |
| Propane tank | \$3.00 |
| Ballast | \$3.00 |
| Capacitor | \$3.00 |
| Swap shop donations - one box (16" x 20" x 11") | \$2.00 |
| Wood chips - per scoop | \$10.00 |
| Paint | no charge |
| Leaves | no charge |
| Grass clippings | no charge |
| Fluorescent bulbs | no charge |
| Rechargeable & button batteries | no charge |
| Car batteries | no charge |
| Motor oil | no charge |
| Oil filters | no charge |
| Antifreeze | no charge |
| Brake fluid | no charge |
| Cell phones | no charge |
| Newspaper, magazines, junk mail, books | no charge |
| Cardboard | no charge |
| Cans and bottles | no charge |
| Televisions | no charge |
| Computers & all accessories | no charge |

Ask the attendant for a recycling brochure if you do not have one.

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LEGAL NOTICE
TOWN OF MANSFIELD

ADOPTION OF AMENDMENTS TO PARKS RULES AND REGULATIONS

Following a Public Hearing held on June 9, 2014, the Mansfield Town Council adopted amendments to the Parks Rules and Regulations. These amendments shall become effective 21 days after a summary of the amendments and a notice of adoption is published in a newspaper having a circulation in the Town of Mansfield.

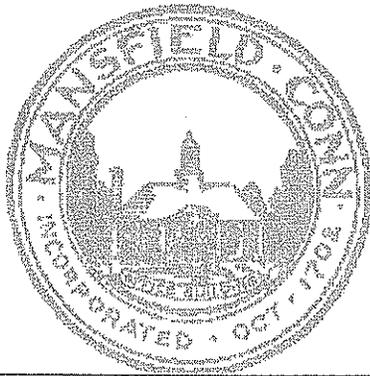
The adopted amendments allow for permanent installation of sponsorship signs and banners on scoreboards and provides the department with more discretion regarding the location of signs and banners.

This document is prepared for the benefit of the public, solely, for purposes of information, summarization and explanation. This document does not represent the intent of the legislative body of Mansfield for any purpose. Copies of the ordinance will be mailed to any persons requesting one at no charge to such person.

Dated at Mansfield Connecticut this 11th day of June 2014.

Mary Stanton
Town Clerk

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THE MANSFIELD MINUTE

Item #15

JUNE 2014

www.mansfieldct.org

- Rabies Clinic, June 14, 10–Noon, Eagleville Fire Station, \$10 per vaccine.
- Town Hall will be closed on Friday, July 4.
- Mansfield Schools will close for the summer on June 20.
- You can use credit and debit cards for any transaction at the Transfer Station. But American Express cards are NOT accepted.
- Meals on Wheels: Volunteers are needed to deliver meals to homebound individuals. Interested? Call 429-0262 x8.
- Join the Community Center as a 3 month member and save 50%! Offer ends 6/30.
- Storrs Farmers Market is open every Saturday, 3 – 6 PM. Located on the front lawn of the Mansfield Town Hall. Open rain or shine!

Annual Budget Passed at Town Meeting

On Tuesday, May 13, the Town held its Annual Town Meeting for Budget Consideration. The FY 14/15 operating, capital, and capital/nonrecurring budgets passed with 155 people voting in favor and 33 people opposed.

Motions made and approved on the floor by voters were to increase the Council adopted budget by \$145,000 for K-8 education and by \$50,000 for transportation projects such as sidewalk repairs. As adopted at Town meeting, the FY 14/15 budgets are as follows:

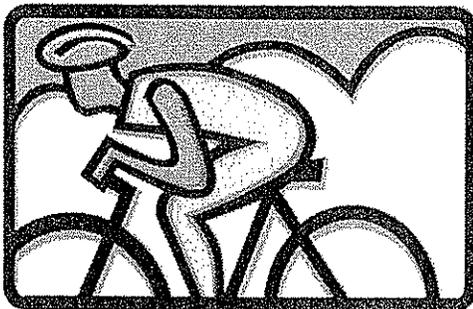
- General Fund (including Region 19 contribution) - \$46,884,224;
- Capital Fund - \$6,649,020;
- Capital Nonrecurring Fund - \$2,094,600.

Overall, expenditures will increase by 2.2% for FY 14/15. However, due to increased state revenues and new revenue generated from the Storrs Center project there will be no tax increase for the coming year. The Town Council has set the mill rate at 27.95 mills for FY 2014/15, the same rate as the current fiscal year. The tax bill for a median assessed single family home in Mansfield will remain at \$4,749. Tax bills will likely be mailed to residents the third or fourth week of June.

EMERGENCY NOTIFICATION TEST WILL TAKE PLACE ON JUNE 4TH



The CoderED system provides Mansfield officials the ability to quickly deliver messages to targeted areas or the entire town. On June 4 at around 1 PM, town officials will conduct a test of the system to determine how quickly notifications can be delivered to the entire community in case of an actual emergency. *(continued on page 2)*



John E. Jackman
Tour de Mansfield

SATURDAY, JUNE 14, 2014

(RAIN DATE: SUNDAY, JUNE 15)

- 7:00 AM - Registration
- 8:00 AM - 40-Mile Ride Starts
- 9:00 AM - Bike Rodeo Starts
- 9:30 AM - 20-Mile Ride Starts
- 10:30 AM - 5-Mile Family Ride Starts
- 12:30 PM - Lunch

REGISTER ONLINE:

www.mansfieldcc.com

FOR MORE INFO, TURN
THE PAGE OR CALL:
860.429.3015

Emergency, cont. from pg. 1...

Before the test, you are encouraged to provide additional contact information, including cell phone numbers, text and email addresses as well as to specify your notification preferences by visiting the CodeRED notification enrollment page at www.mansfieldct.gov/codered. You must have a Mansfield home or work address in order to register.

Emergency Management Director Fran Raiola cautions that such systems are only as good as the telephone number database supporting them. *"If your phone number is not in the database, you will not be called."* One of the reasons the CodeRED system was selected is it gives individuals and businesses the ability to add their own phone numbers directly into the database, and that information is immediately available to town officials to contact in case of emergency.

"No one should assume their telephone number is included," Raiola said, urging all Mansfield residents and businesses to log onto the Town of Mansfield's website (www.MansfieldCT.gov) and follow the CodeRED link for community notification enrollment. If you cannot register

online, you can call 860-429-3328 and town staff will help you to complete your registration over the telephone. Required information includes first and last name, street address (no P.O. boxes), city, state, zip code, and primary phone number. Additional phone numbers can be entered as well.

All Mansfield businesses should register, as well as all Mansfield residents who have unlisted phone numbers, residents who have changed their phone number or address within the past year, and those who use a cell or VoIP phone as their primary number.

CodeRED allows geographically based delivery, which means street addresses are required to ensure emergency notification calls are received by the proper people in a given situation. The system will send phone calls to landlines and cell phones, as well as text messages and emails, so you need to enroll your information to select your notification preferences.

Summertime in Mansfield *We've got a full schedule!*

If you live in Mansfield, you have many choices for your summer fun. Enjoy a quiet hike, take a swim, rent a kayak, read a book in the shade...but if you are up for a little more activity, join us for some fun!

The **Community Center** will host *FREE Family Concerts* on Thursday evenings in July (10,17,24, 31) from 6:30-8 PM.

The **Library** runs *Summer Reading* programs for all ages in July and August, including storytellers, crafts, cooking challenges, science programs, and author visits. For more information call the library at 423-2501 or visit mansfieldpubliclibraryct.org.

The **Senior Center** will be hosting a Summer Evening series on two Thursday evenings, July 3 & August 7. Dinner at 5 PM followed by entertainment. All ages welcome.

Storrs Center is full of activity this summer. Stop in and enjoy!

Listen to local musicians at Live Music Wednesdays from 5-7 PM.

The Square Fair, showcasing local artists and makers, takes place on the 4th Friday of each month from 5-9 PM.

Friendly Fire Games hosts a Board Game Night on Wednesdays, 6 PM.

STODO Arts hosts movies on the 4th Friday of the month at 7 PM at the UConn Co-op Bookstore.

There will be Puppet Shows at the Ballard Institute and Museum of Puppetry every Saturday from June 28 - August 9, 11 AM and 2 PM.

The Mansfield Historical Society (429-6575) opens on weekends (1:30-4:30) beginning June 1. This year's exhibits include quilts dating from the 1850s to the 1950s, Scott Rhoades' paintings of Mansfield historical sites, and Charles Emory Smith (1842-1908), newspaper editor, U.S. Minister to Russia and Postmaster.

Visit the Gurleyville Gristmill on Stonemill Road. It's open Sundays from May 18 through October 12,

Town Hall Hours:

| | |
|-----------|-----------|
| Monday | 8:15-4:30 |
| Tuesday | 8:15-4:30 |
| Wednesday | 8:15-4:30 |
| Thursday | 8:15-6:30 |
| Friday | 8-12 |



John E. Jackman
7th Annual Tour de Mansfield
& Children's Bike Rodeo

Saturday, June 14, 7:30AM—Noon.
 Group start times for each distance.

What a great way for the whole family to get out and ride through our beautiful villages and countryside! The day is designed to appeal to riders of all levels, and will include rides of three distances; 5, 20 & 40 miles. The 5 mile Family fun ride will be led by police officers. It will take place right after the FREE Bike Rodeo for kids. The rodeo will have an obstacle course, bike safety tips, helmet check and more!

All rides will start and end at the Community Center and will conclude with lunch. Join us and experience Mansfield by bicycle! Anyone interested in volunteering please contact the Parks & Recreation Department at (860) 429-3015.

- Under age 18 –FREE!
- \$20 for residents registering on or before June 13.
- \$25 for residents who register on June 14.

Interstate Reliability Project
Update



Northeast Utilities provides a weekly project update that highlights the upcoming construction activities for the Interstate Reliability Project. Click on this link to view construction updates for Mansfield:

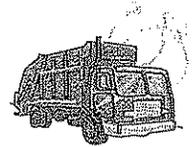
<http://www.transmission-nu.com/residential/projects/IRP/ConstructionInformation.asp?Town=Mansfield>

Construction usually takes place on Monday through Saturday between 7 AM and 7 PM. For additional information about the Interstate Reliability Project's construction activities, please contact the Interstate Reliability Project hotline at 1-866-996-3397, or visit www.NEWSprojects.com.

What is the Interstate Reliability Project? It's one of the major transmission projects that are part of the New England East-West Solution (NEEWS). Together, the NEEWS Projects will strengthen the reliability of the power grid in New England, with the goal of improving its efficiency and eliminating crippling and costly bottlenecks.

Rabies Clinic — Saturday June 14. At the Eagleville Fire Station 10 AM to Noon. \$10 per vaccine. Bring your current rabies certificate for a 3 year vaccine. Dogs must be on a leash and cats in a carrier.

New Trash/Recycling Trucks
What's different about that truck???



Have you seen Willimantic Waste Paper Company's new split body truck? It may look like your trash and recycling are being thrown in together, but there are actually *two* compartments on the truck – one for trash and the other for recyclables. After your trash container is emptied, the trash compartment on the truck is closed to allow the contents from your recycle container to empty into the recycle compartment. Trash is delivered to one of Connecticut's trash incinerators and the recyclables are sorted for market at Willimantic Waste Paper.



Agriculture in Mansfield

Since Mansfield's incorporation in 1702, agriculture has played a large role in the history and development of the town. An active farming community includes the Storrs Farmers Market, the University's farm and Dairy Bar, three dairy farms and approximately 30 other agricultural enterprises. These help preserve the rural nature of the town, which attracts visitors and new residents alike.

The town is committed to preserving and encouraging local agriculture. During the creation of Mansfield 2020: A Unified Vision, the town identified preserving "existing farms in Mansfield while increasing the number of farms and farming opportunities" as a priority for the community.

The Mansfield Tomorrow plan includes an analysis of farmland and agricultural businesses as well as strategies to support farmland preservation and the economic success of agriculture in town.

Agriculture Committee

The Mansfield Agriculture Committee is an active group of appointed citizens who advises the Town Council and other bodies, such as the Planning and Zoning Commission, on matters related to preserving farmland and agricultural activity in Mansfield. The Committee's outreach efforts include the publication of the Mansfield Grown Brochure.



Grow your own vegetables.

Would you like to try your hand at sustainable gardening? Visit the library and "borrow" seeds from the Seed Library. In the fall, bring in seeds from your best plants to keep the library going.

June Events and Activities in Mansfield

Parks and Recreation

Summer Parks and Recreation Program Registration

Registration for youth summer camps and all adult and youth programs is now taking place. Visit www.mansfieldcc.com for a program brochure, fees and registration information. Questions? Call 429-3015.

Bicentennial Pond

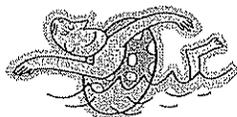
Opens for swimming on June 21.

Public swim hours:

Monday – Friday 12-7 PM,

Saturday – Sunday 12-6 PM.

Season passes are sold at the Parks & Recreation Dept. or at the park. It costs \$20 per pass for up to 4 people and \$25 for a 5+ people pass. Daily fees are \$1 weekdays & \$2 weekends.



Summer Family Fun Night

Friday, June 7, 4:30-7:30 PM

Try the inflatable slide or use the Tot Toys in the gym, try a game of poolside basketball, stop in the Community Room to do a puzzle or play some board games.

No pre-registration required.

Free Day at the

Community Center

Sunday, June 8, 12—3 PM

Whether you're new to the community center or have been here often, if you're a Mansfield Resident you can visit for FREE.

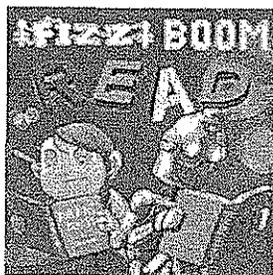
Mansfield Public Library

Summer Sensation Party

Fizz, Boom, Read!

Friday June 27, 6:00-7:30 PM

Kids! Kick off our summer reading program with activities for all the Senses! Free, no need to register.



Summer Reading runs June 20-August 15. Sign up at the library or at mansfieldpubliclibraryct.org and have fun reading this summer.

Thanks to the Friends of Mansfield Library for their support!

Grown-Ups Get to Have Fun Too!

Relax with a good book and win a prize — Join the Mansfield Public Library group on Goodreads (www.goodreads.com). Submit book reviews online or at the library. Each review enters you in a weekly drawing for a gift basket donated by generous community organizations.

Quiet Corner Reads 2014 Finale

Author Ann Hood

Tuesday, June 17, 7 PM

At the Pomfret School.

Ann Hood will be discussing her book, *The Obituary Writer*. Coffee and desserts will be served. Tickets are \$15 at the library. Stop in or call 423-2501 for details.

Mansfield Senior Center

The Senior Center will be closed June 23—27 for maintenance.

Free Blood Pressure Clinic

Wednesday, June 4, 11:30 AM

For people ages 55+ on a first come, first serve basis.

Annual MSCA Banquet

Wednesday, June 11, 5 PM

Please sign up before June 3.

Cost is \$5.00.



VNA East Clinic

Wednesday, June 11, 1—3 PM.

As we get older, wax build up in our ear canal can contribute to hearing loss. The VNA nurse can check your ears and flush out the wax if necessary. Call 429-0262, x4 for an appointment.

There is a fee.

Senior Van Trips

Call 860-429-0262 x0 for more information and to register for these popular trips.

Thursday, June 5

Gillette Castle

Wednesday, June 11

Jonathan Edwards Winery

Tuesday, June 17

Lakeview Restaurant



Mansfield Historical Society

Museum Opening Day

Sunday, June 1, 1:30-4:30 PM

Quilt artist Catherine Smith will discuss her work, quilt demonstrations by the Parish Piecers, and hands-on quilting activities for all ages. Treats.

Come join us for a fun afternoon!

Town of Mansfield, Connecticut
Audrey P. Beck Municipal Building
4 South Eagleville Road, Mansfield, CT 06268
mansfieldct.gov 860.429.3336





TOWN OF MANSFIELD
TOWN MANAGER'S OFFICE

AUDREY P. BECK BUILDING
FOUR SOUTH EAGLEVILLE ROAD
MANSFIELD, CT 06268-2599
(860) 429-3336
Fax: (860) 429-6863

June 12, 2014

POC: Fran Raiola, Emergency Management Director, 860-429-3328

FOR IMMEDIATE RELEASE

Test of Mansfield's CodeRED emergency notification system complete

The CodeRED system provides Mansfield officials the ability to quickly deliver messages to targeted areas or the entire town. On June 4, 2014, town officials conducted a test of the CodeRED emergency notification system to determine its performance capabilities at how quickly notifications could be delivered to the entire community in case of an actual emergency based on the capacity of the local telephone infrastructure.

The CodeRED system was able to contact the entire emergency calling database in less than seven minutes. Future calling speeds will be dependent on many factors, including how long the message is and the number of residents who are designated to receive the message.

All residents are encouraged to enroll their contact information, including home and cell phone numbers, text and email addresses and specify their notification preferences by visiting the CodeRED notification enrollment page on Mansfield's website at www.MansfieldCT.gov. You must have a Mansfield home or work address in order to register.

If you cannot register online, you can call 860-429-3328 and town staff will assist you with completing your registration over the telephone. Required information includes first and last name, street address (physical address, no P.O. boxes), city, state, zip code and primary phone number. Additional phone numbers can be entered as well.

All Mansfield businesses should register, as well as all Mansfield residents who have unlisted phone numbers, who have changed their phone number or address within the past year, and those who use a cellular phone or VoIP phone as their primary number.

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Members

| | |
|---------------|---------------|
| ANDOVER | MANCHESTER |
| AVON | MARLBOROUGH |
| BLOOMFIELD | NEWINGTON |
| BOLTON | ROCKY HILL |
| CANTON | SIMSBURY |
| EAST GRANBY | SOMERS |
| EAST HARTFORD | SOUTH WINDSOR |
| EAST WINDSOR | STAFFORD |
| ELLINGTON | SUFFIELD |
| ENFIELD | TOLLAND |
| FARMINGTON | VERNON |
| GLASTONBURY | WEST HARTFORD |
| GRANBY | WETHERSFIELD |
| HARTFORD | WINDSOR |
| HEBRON | WINDSOR LOCKS |

New Members - 2014-2015

| | |
|-----------|-------------|
| BERLIN | NEW BRITAIN |
| COLUMBIA | PLAINVILLE |
| COVENTRY | SOUTHINGTON |
| MANSFIELD | WILLINGTON |

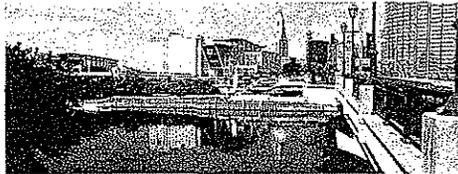
Capitol Region Council of Governments

241 Main Street, 4th Floor
Hartford, CT 06106
www.crcog.org
(860) 522-2217

CRCOG

**CAPITOL REGION
COUNCIL OF GOVERNMENTS**

Working together for a better region.



Annual Report 2013-2014

About CRCOG

The Capitol Region Council of Governments (CRCOG) is guided by the chief elected officials of our 30 Metro Hartford municipalities. Our members have collaborated for more than 30 years on a wide range of projects to benefit our towns individually and the region as a whole. CRCOG serves the Capitol Region and all of our municipalities by:

- Helping members improve governmental efficiency and save tax dollars through shared services and other direct service initiatives;
- Promoting efficient transportation systems, responsible land use and preservation of land and natural resources and effective economic development;
- Strengthening the Capital City of Hartford as the core of a strong region, and as our economic, social and cultural center;
- Advocating for the region and its towns with the State and Federal governments;
- Strengthening our regional community by helping coordinate regional agencies and programs; and assisting local governments and citizens in articulating, advocating and implementing the vision, needs and values of their regional community.

Major Transit Progress

Construction on *CTfastrak* is moving forward! More than 50% of the construction is completed and the service is expected to be operational in March 2015. Planning for improved passenger rail service in the New Haven – Hartford – Springfield corridor is also underway, with cable installation and wetland mitigation expected to be completed this calendar year; and construction on improvements at several stations expected to get underway in the fall.

Nutmeg Network and IT

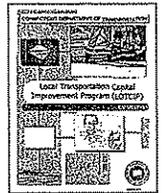
CRCOG launched a new IT Services Cooperative in FY2014 that helps municipalities leverage their access to the expanding state-run high speed fiber Nutmeg Network and houses the CRCOG regional online permitting system. CRCOG received \$1.3 million in Nutmeg Network demonstration grants to implement five projects in partnership with the Connecticut Center for Advanced Technology (CCAT). A strong focus on IT is in store for FY2015 as CRCOG also completes a fiber build RFP for town use and works with municipalities to strategically use technology at the local level.

LOTICIP—Streamlined Transportation Funding

On November 1, 2013, the Connecticut Department of Transportation created a new Local

Transportation Capital Improvement Program (LOTICIP) and reinstated the state Local Bridge

Program. CRCOG was the first Regional Planning Organization to transition projects into LOTICIP for funding in 2014. CRCOG has six projects and a study programmed for approximately \$6.5 million of 2014 state LOTICIP funds. Additionally, CRCOG municipalities have taken full advantage of the reinstated Local Bridge Program funding, with five projects for approximately \$3 million of 2014 state funds. In future years, estimates for CRCOG's portion of LOTICIP funding range between \$9 and \$12 million annually. CRCOG also secured two on-call consultant engineering firms to provide transportation engineering assistance to help projects progress through the new program. CRCOG also pre-qualified on-call consultant engineering and construction inspection firms for municipal consideration.



Building Sustainable Communities

CRCOG and the members of the CT-MA Sustainable Knowledge Corridor Consortium worked this year to complete the requirements of a 3.5 year, \$4.2 million HUD Sustainable Communities Regional Planning Grant. The goal of this project is to preserve, create and maintain a sustainable, economically competitive and equitable Knowledge Corridor Region. This was accomplished through planning to guide conservation and development at the regional and municipal levels. Highlights of FY 2014 work include the following, and more information can be found at www.sustainableknowledgecorridor.org.



Knowledge Corridor 2030: Connected, Competitive, Vibrant and Green—Support for Regional and Municipal Planning

Place-based projects were completed in Hartford, New Britain and Enfield: a Master Plan for Downtown North in Hartford, a Complete Streets Master Plan for Downtown New Britain and a Thompsonville Zoning Study in Enfield.

- The *Sustainable Land Use Regulation Project* produced an assessment of local land use regulations in the Capitol Region and created ten model regulations on topics relating to Energy Efficiency and Alternative Energy, Local Food Systems, Compact Mixed Use

Development, Transit Oriented Development and Affordable Housing. Staff has begun to meet with municipal planning and zoning commissions to share this work, and encourage the update of municipal zoning regulations to incorporate the model codes.

- The *Capitol Region Plan of Conservation and Development* was updated to better integrate plan chapters and increase the focus on sustainability principles. The Plan is a general guide for the future conservation and development of the greater Hartford area.

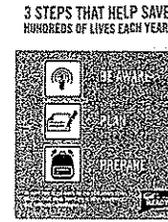
Transit-Oriented Development Market Analysis CRCOG and the Pioneer Valley Planning Commission, on behalf of the Sustainable Knowledge Corridor Consortium, completed a major study on economic opportunities likely to be spurred by the over \$1.5 billion in bus rapid transit and rail investments underway in the Knowledge Corridor. The report entitled, *Making It Happen: Opportunities and Strategies for Transit-Oriented Development in the Knowledge Corridor*, confirms the market for transit-oriented development in the region, and provides a resource to public and private entities seeking to create housing and commercial development in the CTfastrak and NHHS Rail station areas.

Purchasing Council Improvements

CRPC saved over \$1.8 million through its bids and RFPs in FY2014 and expanded to represent 95 members. Continuous improvement efforts were made to the current programs, including an Electricity Reverse Auction that yielded over \$450,000 of savings, rebidding of the Job Order Contracting construction program and providing significant oversight of delivery issues for Treated Road Salt due to supply chain issues.

Get Ready Capitol Region

CRCOG rolled out the Get Ready Capitol Region citizen preparedness campaign this year. Anchored by the getreadycapitolregion.org website, the initiative includes a Facebook page with 5,000 "likes" as well as a Twitter feed. All 41



communities in DEMHS Region 3 are linked to the site and it has proven an invaluable tool for our citizens. The website contains information on potential hazards in the Capitol Region, instructions on how to build a disaster kit, links to state and federal information, numerous types of disaster checklists (functional needs, children, pets, elderly), volunteer opportunities and is also available in Spanish. CRCOG has convened a Citizen Preparedness Coalition group which meets quarterly and is training EMD's and CERT team members to serve as ambassadors within their communities.

Region 3 Traffic Incident Management (TIM) Coalition Reconvened

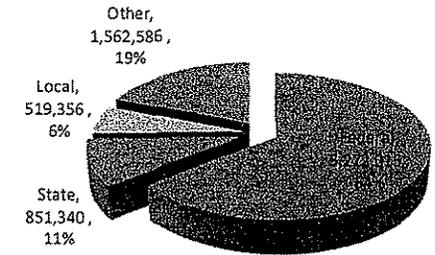


The Region 3 (Department of Emergency Management and Homeland Security region of 41 communities) TIM Coalition has reconvened. Emergency

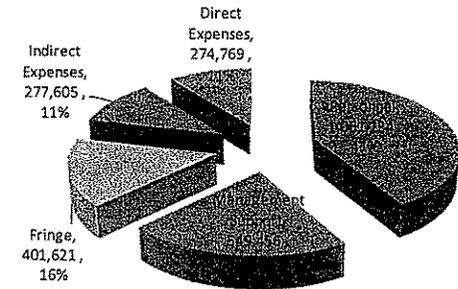
responders from any discipline are invited to quarterly meetings to discuss barriers, identify improvements, and propose policy, program and projects for saving lives and reducing congestion related to highway incidents.

Finances 2013-2014

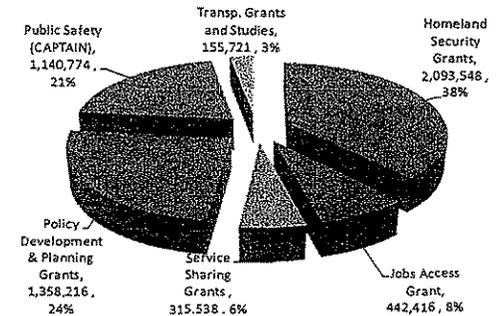
Revenue: \$8,205,297



Operational Expenditures \$2,564,684

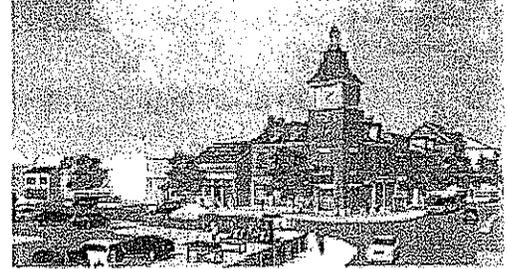


Grant and Other Expenditures \$5,506,212

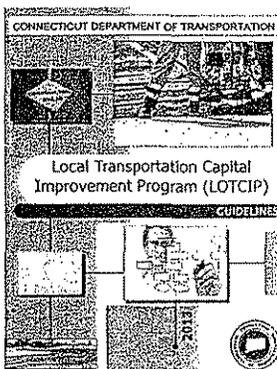


BENEFITS OF CRCOG MEMBERSHIP FY 2013-2014

All CRCOG municipalities in the region benefited from receipt of a **\$4.2 million** HUD Sustainable Communities Regional Planning Grant for the MA/CT Knowledge Corridor. A wide range of activities, all of which will be completed by October 31, 2014, support metropolitan and multi-jurisdictional planning efforts that integrate housing, land use, economic and work force development, transportation and infrastructure investments. In addition, CRCOG received a **\$300,000** Federal Emergency Management Agency (FEMA) grant that funded the 2014 update of the Capitol Region Natural Hazard Mitigation Plan. Once the Department of Energy and Environmental Protection and FEMA approve the plan, participating municipalities can apply for FEMA hazard mitigation project grants. CRCOG staff also provides GIS analysis, map production, and technical assistance such as U.S. Census Data analysis, as well as the acquisition and development of aerial imagery and other data products in conjunction with hosting and maintaining a regional web-based GIS system. CRCOG also established the Capitol Region Green Clearinghouse to share best practices that support regional sustainability in the areas of green infrastructure, access and mobility, environment, affordable housing, and food security.



The Capitol Region Purchasing Council (CRPC) program saves its members money through conducting competitive bids on their behalf, and providing access to volume-based savings. CRPC conducted 17 bids in FY2013-14, saving its members over **\$1.8 million**. CRPC also runs a Natural Gas Consortium and a CRCOG Electricity Consortium that resulted in FY2013-14 savings of over \$400,000 for members of those consortia. CRPC has also seen a large increase in utilization of our Job Order Contracting program (ezIQC) which provides on-call construction and renovation services to our members. To date, over \$9 million of projects have been completed for our member municipalities and agencies in ezIQC. CRPC serves 95 member municipalities and agencies and CRCOG dues include CRPC membership. CRCOG also launched a new IT Services Cooperative in FY2014 that helps municipalities leverage their access to the expanding state-run high speed fiber Nutmeg Network and includes a competitively bid partnership with Connecticut Center for Advanced Technology, houses the CRCOG regional online permitting system and will include a competitively bid fiber build-out contract.



In FFY 2013, CRCOG obligated over **\$6 million** in federal STP Urban Transportation Funds to start design, right of way acquisition or construction of previously approved road projects. Over the last year, the CRCOG Transportation Program also advanced municipal transportation, enhancement, or congestion related projects. CRCOG also provided technical assistance to towns to solve traffic problems, program federal monies, and worked with CTDOT on design issues through corridor studies and general technical assistance. Regarding future funding for municipally sponsored projects, CRCOG worked to expend the first year of Local Transportation Capital Improvement Program funds of **\$6.5 million** by finalizing agreements,

programming projects, and establishing the on-call framework needed to successfully implement the program.

The CRCOG Public Safety Program works to coordinate regional public safety and homeland security activities. These programs help protect our communities and prepare us to respond and recover, as a region, from disasters. Since 2009, CRCOG has received approximately **\$14.5 million** in Public Safety dollars, comprised of funds from the State Homeland Security Grant Program, Law Enforcement Terrorism Prevention Program, Metropolitan Medical Response System, Interoperable Emergency Communications, Urban Areas Security Initiative, and the Citizen Corps Program. For the region as a whole, CRCOG has facilitated numerous exercises including table-top, functional and full-scale, contracted for a full capability assessment, conducted various After Action Reviews, established a Long Term Care Facility Mutual Aid Plan and instituted the Get Ready Capitol Region citizen awareness website and campaign. Through CRCOG, regional teams including Special Weapons and Tactics (SWAT), Dive, the Hartford Bomb Squad, Regional Incident Dispatch, Command Post, Special Needs training unit, and the Medical Reserve Corps also received extensive training and equipment. Individual towns have received the following: \$200/day reimbursement for first responders attending approved training or exercises; assistance with local training and exercises, SWAT equipment, fingerprint machines, cots, upgrades to local emergency operation centers, credentialing capability, and CAPTAIN Police and Fire equipment and services.

This is a partial listing of CRCOG projects and benefits. CRCOG also offers other benefits that cannot be measured monetarily including technical assistance in shared services, transportation and land use planning.

3 STEPS THAT HELP SAVE HUNDREDS OF LIVES EACH YEAR.



Delivering Quality Water

The University of Connecticut is pleased to provide you, our water system customers, with the 2013 Water Quality Report for the system that provides water to the Main and Depot campuses and surrounding areas.

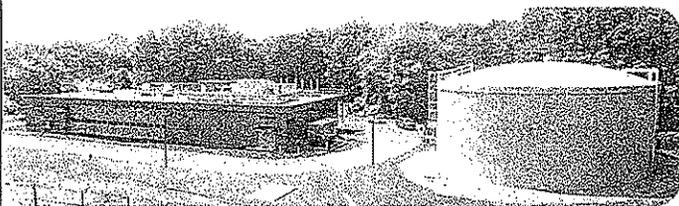
We provide this report to our customers to fulfill the consumer confidence reporting requirement of the federal Safe Drinking Water Act (please see the water quality test results on page 3) and also to keep you apprised of important water system developments.

One of the important water system developments is the successful start up of the reclaimed water facility. The reclaimed water facility has been providing the UConn central utility plant with treated, non-potable water since May 2013. The effects have been immediate and significant, reducing our overall potable water demand by 13.5 percent as compared to demand in 2012.

Work continues on optimizing the reclaimed plant's performance, and the University looks forward to adding irrigation and toilet flushing to the list of reclaimed uses on campus in the future.

Of course the other notable development has been the progress made in securing a supplemental source of water supply. The University successfully concluded its environmental review of the potential supplemental sources of supply, concluding that Connecticut Water Company's alternative was the most environmentally sound and least costly option among three options reviewed. See "Securing Additional Water Supply for the Long Term" on this page.

Thank you for taking the time to review this report. If you have questions concerning the drinking water quality results please call, week days between 8 a.m. and 5 p.m., the University's Department of Environmental Health and Safety at 860-486-3613, or New England Water Utility Services, Inc.'s (NEWUS) project manager at 860-486-1081, or visit our web site at www.facilities.uconn.edu.



Reclaimed Water Facility

Regulatory Oversight

The University's Main Campus and Depot Campus systems experienced no water quality or monitoring/reporting violations for this reporting period. To ensure that tap water is safe to drink, the Federal Environmental Protection Agency (EPA) and the State of Connecticut Department of Public Health (DPH) establish and enforce regulations that limit the amount of certain substances in the water provided by public water systems. Water quality testing is an ongoing process, and the frequency of testing for each parameter is prescribed by these drinking water regulations. Due to testing schedules, not all of these tests were required during 2013, but the most recent test data is shown in the table located on page 3. Samples from the University's water systems are tested regularly at state-certified laboratories to ensure compliance with state and federal water quality standards. Water samples are collected for water quality analysis from our wells, from entry points into our systems, and from sample locations within our distribution system.

In March of 2013, the Depot Campus system (Public Water System ID (PWSID) No. CT0780011) was consolidated into the Main Campus System by the Connecticut Department of Public Health (DPH) for reporting purposes. This modification was a result of the activation of the new Willimantic Well Field Treatment Facility. All information for 2013 and going forward is combined with and reported under the Main Campus PWSID (CT0780021).

Securing Additional Water Supply for the Long Term

In September, the state Office of Policy and Management (OPM) approved an Environmental Impact Evaluation (EIE) based on a plan in which the Connecticut Water Company (CWC) will provide water to supplement the long-term water needs of the campus and Storrs area of Mansfield. UConn worked closely with the Town of Mansfield to complete the plan. The EIE, which satisfied the state's Environmental Policy Act requirements, concluded that CWC's alternative was the most environmentally sound and least costly option among the various alternatives reviewed.

In December, UConn and CWC signed an agreement for CWC to provide up to 1.5 million gallons of water daily as needed for the University over the 50-year planning horizon evaluated in the EIE. CWC will bear the cost of building the pipeline from Tolland to Storrs with no contribution or surcharges borne by Mansfield, its residents, or UConn. The process of seeking state regulatory permits has started and will include opportunities for public input in the regulatory process. Construction is expected to be completed 18 months after receipt of the required permits. Once completed, off-campus customers in Mansfield who are currently on UConn's water system, will become CWC customers. Connecticut Water will maintain rates at their current UConn level for these existing customers.

CWC coordinated a Water System Advisory Group with representatives from the Town, UConn, nearby community representatives, and other stakeholders, which will provide local input and ensure communication and collaboration relating to the CWC system. The group will also make recommendations about best management practices, including water conservation programs, and CWC will work with the Advisory Committee to implement such programs. UConn approached the process of negotiating this agreement with a commitment to serving the best long-term interests of the campus, its neighbors, and the region.

System Description

The University owns and operates the Main Campus Water system in Storrs and the Depot Campus section in Mansfield. Although the Main and Depot Campus systems are interconnected, the source of water within each system is different. The Main Campus receives water from gravel-packed wells located near the Fenton River and Willimantic River Wellfields. The Depot Campus receives water only from the Willimantic River Wellfield. Our wells do not draw water directly from the Fenton and Willimantic Rivers; rather, the wells are located near the rivers and pump groundwater from underground aquifers. Because groundwater moves very slowly through the fine sands that make up the aquifers, the water is naturally filtered. The result is water of excellent chemical, physical, and bacteriological quality pumped from each wellfield. The only water treatment added is sodium hydroxide for pH adjustment and disinfection control, and chlorine for disinfection. The University continues to provide an ample supply of high quality drinking water to meet the needs of its on-campus and off-campus users. In addition, it has over 7.6 million gallons of storage capacity to meet all domestic, process, and fire protection needs. Booster pumps help maintain adequate system pressures, and emergency generator power ensures continued operation during electric power outages. In August, in conjunction with our efforts to maintain our existing water infrastructure, the west standpipe (Tank #1) was drained, cleaned and rehabilitated to meet current regulatory standards.

Water Quality

As water travels over the land surface and through the ground, it dissolves naturally occurring minerals and in some cases, radioactive material, and picks up substances resulting from the presence of animals or human activity, including:

- viruses and bacteria, which may come from septic systems, livestock and wildlife;

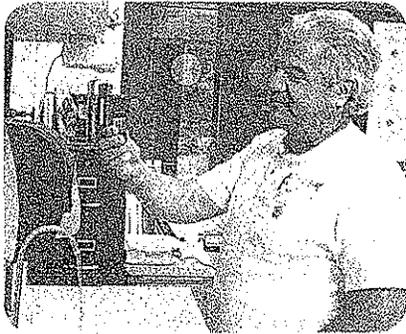
- salts and metals, which can be natural or may result from storm water runoff and farming;

- pesticides and herbicides, which may come from a variety of sources such as agriculture, urban storm water runoff or lawn care;

- organic chemicals, which originate from industrial processes, gas stations, storm water runoff and septic systems; and

- radioactive substances that can be naturally occurring.

To ensure safe tap water, EPA prescribes limits on these substances in water delivered by public water systems. The presence of these contaminants does not mean that there is a health risk. The University complies with EPA and state water quality requirements to ensure the quality of the water delivered to customers. There were no water quality violations in the University's systems in 2013.



Stage 2 Disinfectants and Disinfection Byproduct Rule (Stage 2 DBP rule)

The Environmental Protection Agency's Stage 2 Disinfectants and Disinfection Byproducts Rule (DBP rule) requires all water systems to reduce the potential for producing elevated levels of certain "disinfection byproducts" that have potential adverse health effects. These chemical byproducts can be produced by the reaction of disinfecting chemicals with naturally occurring chemical compounds found in the water. Water quality sampling results over eight consecutive quarterly sampling periods showed that 100% of the samples contained levels of disinfection by-products in excess of the allowable levels. Because of these favorable sample results, the University's water system has been designated as in compliance with the DBP rule.

Health Information

Consumer Confidence Reports are required to contain public health information for certain contaminants and compounds, even if the levels detected in the system were less than the Maximum Contaminant Levels (MCL) established for those parameters. The presence of contaminants does not necessarily indicate that the water poses a health risk. More information about contaminants and potential health effects can be obtained by calling the EPA's Safe Drinking Water Hotline (800-426-4791).

Some people may be more vulnerable to contaminants in drinking water than the general population. Immunocompromised persons such as persons with cancer undergoing chemotherapy, persons who have undergone organ transplants, people with HIV/AIDS or other immune system disorders, some elderly, and infants can be particularly at risk for infections. These people should seek advice about drinking water from their health care providers. EPA and the Federal Center for Disease Control guidelines on reducing the risk of infection by *Cryptosporidium* and other microbial contaminants are available from EPA's Safe Drinking Water Hotline (800-426-4791).

CRYPTOSPORIDIUM. *Cryptosporidium* is a microbial parasite found in surface waters throughout the U.S. Since the University uses groundwater (wells) rather than surface water (reservoirs), the University is not required to test for *Cryptosporidium*.

COPPER & LEAD. The University currently meets regulatory requirements for both lead and copper. Lead and copper were tested in 2010 (Depot Campus) and 2011 (Main Campus) and will be tested again in 2014. Nonetheless, the University believes it is important to provide its customers with the following information regarding lead and copper.

If present, elevated levels of lead can cause serious health problems, especially for pregnant women and young children. Lead in drinking water is primarily from materials and components associated with service lines and home plumbing. The University's water systems provide high quality drinking water, but cannot control the variety of materials used in plumbing components. When your water has been sitting for several hours, you can minimize the potential for lead exposure by flushing your tap water for 30 seconds to 2 minutes before using water for drinking or cooking. If you are concerned about lead in your water, you may wish to have your water tested. Information on lead in drinking water is available from the Safe Drinking Water Hotline or at www.epa.gov/safewater/lead.

Similarly, elevated copper levels can also have health impacts. Copper is an essential nutrient, but like lead, its levels can vary from location to location. Some people who drink water containing copper in excess of the Action Level over a relatively short period of time could experience gastrointestinal distress and may also suffer liver or kidney damage. People with Wilson's disease should consult their personal physician. If you are concerned about elevated copper levels, you may wish to have your water tested. Running your tap for 30 seconds to 2 minutes before using for drinking or cooking will significantly reduce copper levels in the water.

Water Quality Testing

The results of tests conducted on water samples for regulated compounds are summarized in this report. While most of the monitoring was conducted in 2013, certain substances are monitored less than once per year because the concentrations are expected to be relatively constant. If levels were tested prior to 2013, the year is identified in parentheses.

As required by the EPA and the DPH, the University also periodically tests for "unregulated contaminants." Unregulated contaminants are those that do not yet have a drinking water standard set by EPA. The purpose of monitoring for these contaminants is to help EPA decide whether the contaminants should have a standard. The last required samples for those unregulated compounds were collected in July 2009 with all sample results below detection levels.

University of Connecticut Water System

| Water Quality Test | MCL | MCLG | Highest Level Detected | Range of Detections | MCL Exceeded? | Possible Contaminant Source |
|--|--------------------------------------|------------|------------------------|---|---------------|--|
| Copper (ppm) | AL 1.3 | AL 1.3 | 0.268* (2011) | 0.005-0.465 | No | Corrosion of household plumbing systems |
| Lead (ppb) | AL 15 | AL 15 | 14* (2011) | ND-22 | No | Corrosion of household plumbing systems |
| Barium (ppm) | 2 | 2 | 0.004 | 0.003-0.004 | No | Erosion of natural deposits |
| Chloride (ppm) | 250 | NA | 22.5 | 8.7-22.5 | No | Erosion of natural deposits |
| Nitrate (ppm) | 10 | 10 | 0.78 | 0.07-0.78 | No | Runoff from fertilizer use |
| Nickel (ppm) | 0.1 | 0.1 | .002 | .002 | No | Erosion of natural deposits |
| Sodium (ppm) | NL=28 | NA | 26.1 | 9.4-26.1 | No | Erosion of natural deposits |
| Sulfate (ppm) | NA | 250 | 10.7 | 5.9-10.7 | No | Erosion of natural deposits |
| Turbidity (ntu) | TT (5 ntu) | NA | 0.2** | ND-7.37 | No | Soil runoff, pipe sediment, or precipitation of minerals or metals |
| Total Coliform Bacteria | presence in >5% of mo. samples | 0 | 0 | Present in 0 samples for the year | No | Naturally present in the environment |
| Alpha Emitters (pCi/L) | 15 | 0 | 5.1 | ND-5.1 | No | Erosion of natural deposits |
| Combined Radium (pCi/L) | 5 | 0 | 1.08 | ND-1.08 | No | Erosion of natural deposits |
| Chlorine (ppm) | MRDL 4 | MRDLG 4 | 0.9 | 0.01-0.9 | No | Water additive used to control microbes |
| HAA5 (ppb) [Haloacetic acids] | 60 | NA | 2.9 | ND-2.9 | No | By-product of drinking water disinfection |
| TTHMs (ppb) [Total Trihalomethanes] | 80 | 0 | 30.1 | ND-30.1 | No | By-product of drinking water disinfection |

* Compliance is based on 90th Percentile Value as listed here.

** Compliance is based on Running Annual Average as listed here.

Definitions and Key Terms

AL (Action Level): The concentration of a contaminant which, if exceeded, triggers treatment or other requirements which a water system must follow.

MCL (Maximum Contaminant Level): The highest level of a contaminant allowed in drinking water. MCLs are set as close to the MCLGs as feasible using the best available treatment technology. Typically when MCLs are exceeded a violation occurs and public notification is required.

MCLG (Maximum Contaminant Level Goal): The level of a contaminant in drinking water below which there is no known or expected health risk. MCLGs allow for a margin of safety.

MRDL (Maximum Residual Disinfection Level): The highest level of a disinfectant allowed in drinking water.

MRDLG (Maximum Residual Disinfection Level Goal): The level of a drinking water disinfectant below which there is no known or expected risk to health.

Detected Contaminant: A detected contaminant is any contaminant measured at or above a **Method Detection Level**. Just because a contaminant is detected does not mean that its MCL is exceeded or that there is a violation.

N/A: Not applicable.

ND: Not detected.

NL: Notification level.

ppb (parts per billion): One part per billion = ug/L; the equivalent of 1 penny in \$10,000,000.

ppm (parts per million): One part per million = 1 mg/l; the equivalent of 1 penny in \$10,000.

PCi/L (picocuries per liter): A measure of radioactivity.

TT (Treatment Technique): A required process intended to reduce the level of a contaminant in drinking water.

aging Demand

ility that lets the University of Connecticut
erve hundreds of
sands of gallons
inking water
day is now
operational.
nn's new water
nation facility,
h is a cornerstone
Conn's water
ervation and
onmental



ction efforts, came online last summer. The
million facility can process up to 1 million gallons
ter daily and is the first of its kind in Connecticut.
rently processes about 230,000 gallons on an
ge day and up to 500,000 gallons on peak days
ig the summer months. Treated water is used
erate the University's power plant when the
r plant faces high demand for electricity and air
itioning. By substituting processed wastewater
igh-quality drinking water for this purpose, the
ersity is helping to conserve valuable natural
rces.

efore the water reclamation plant came online,
nn's conservation efforts resulted in a significant
ase in potable water use between 2005 (1.49
on gallons daily) and 2013 (1.09 million gallons
y) – despite having a larger population and more
lings to serve. The reclamation plant is expected to
ficantly add to those conservation efforts.

water conservation efforts contributed significantly
e national and global recognition UConn has
ved for its sustainability performance. The
ersity won the top spot as Sierra magazine's
lest School" nationwide in 2013 for its efforts
ourage sustainability, green technology, and
onmental stewardship. UConn was also named to
No. 1 spot on Universitas Indonesia's GreenMetric
ld Ranking in 2013.

te Water Planning

nn participated in a Water Planning Summit
ened by members of the General Assembly in
ber. It also convened a conference of water
rts to discuss development of a strategic water
for the state. Gene Likens, Special Environmental
sor to UConn President Susan Herbst, chaired
onference which was attended by approximately
leaders representing Connecticut's regulatory,
r utility, environmental and academic interests.
ing luncheon remarks, Connecticut Governor
nel P. Malloy underscored the need for a plan and
ommitment to ensuring it is developed. UConn
ffered technical assistance and expertise to the
er Planning Council.

Source Protection

The University actively protects
its wells, wellfields, and the
Fenton and Willimantic Rivers,
which are valuable water
resources. Pursuant to the
Connecticut Environmental
Policy Act (CEPA), the
University undertakes
Environmental Impact
Evaluations for construction
projects based on their size,
location, cost or other factors.

This process, administered through
the State Office of Policy and Management (OPM), provides state agencies,
the town of Mansfield, environmental organizations, and interested citizens
an opportunity to participate in the review process on a project regarding its
potential environmental impact. The University also cooperates with Windham
Water Works regarding watershed inspections on the Main Campus. These
inspections are designed to protect the Fenton River Wellfield and the Fenton
River, as well as the downstream reservoir that serves the Windham Water system.

The University utilizes its aquifer mapping information to delineate the areas of
groundwater recharge for its wellfields. This technical evaluation, required by the
Department of Energy and Environmental Protection (DEEP), shows the critical
areas of direct recharge that must be protected from certain development. DPH,
in conjunction with DEEP, maintains Source Water Assessment Program (SWAP)
reports on the Fenton River and Willimantic River wells. These reports evaluate
potential threats of contamination to our wells. The University's wellfields
have an Overall Susceptibility Rating of "LOW," the best possible rating. To
ensure continued source protection, however, the University will remain vigilant
in protecting all of its water supply sources in the years to come. For more
information regarding the SWAP report, visit the DPH's Web site at
www.ct.gov/dph.



Fenton River

Emergency Notification

UConn and its contract operator, NEWUS, have established a notification



system to alert its customers of water
supply interruptions. These notifications
will be sent when water is planned
to be temporarily unavailable due to
construction or other improvements or
during emergencies such as a broken
water main. UConn on-campus
consumers are notified through the
Building & Emergency Contact
(B&EC) system. This enables an email

to be sent to the listed contacts of the buildings expected to be affected by
the outage. Off-campus customers are notified through NEWUS' emergency
notification call system. Notifications will include as much information as
possible, including the expected duration of the outage, if known, and any
special instructions.

In order for us to promptly notify our customers, it is important that our
contact information for you is complete and up to date. Employees can check
their B&EC contact information by accessing <http://beclist.uconn.edu> using
their NET ID. Off-campus customers who wish to update their phone number,
please call 1-800-286-5700 or email to customerservice@ctwater.com.

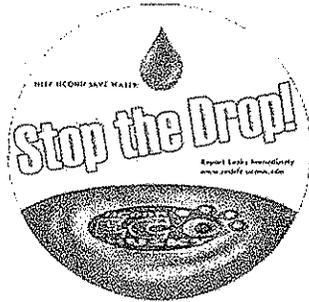
Water Usage

The total potable water usage in 2013 dropped by about 13.5 percent compared to 2012. This is the largest year to year decrease we have seen and is almost entirely attributable to the start up of the reclaimed water facility. Since May 2013, treated wastewater from the reclaimed plant has replaced the potable water that had been used by the UConn central utility plant.

In addition to reclaimed water, your cooperation in conserving water certainly helped contribute to our overall drop in water usage. The autumn months of 2013 were particularly dry, and the resulting lower streamflows led to our open requests for water conservation as we continue to honor our environmental commitments. We appreciate your efforts to conserve water when we issue our conservation requests and throughout the year.

From 2005 to 2013, the average daily demand on the UConn water system has decreased from 1.49 million gallons per day (mgd) in 2005 to 1.09 mgd. While the on-campus service population increased by 11 percent over that time, the average daily water demand decreased by more than 26 percent. To

accomplish that reduction, the University has made water system operation changes that have maximized our water efficiencies with water-saving devices and reduced wasted water through diligent leak detection and repair.

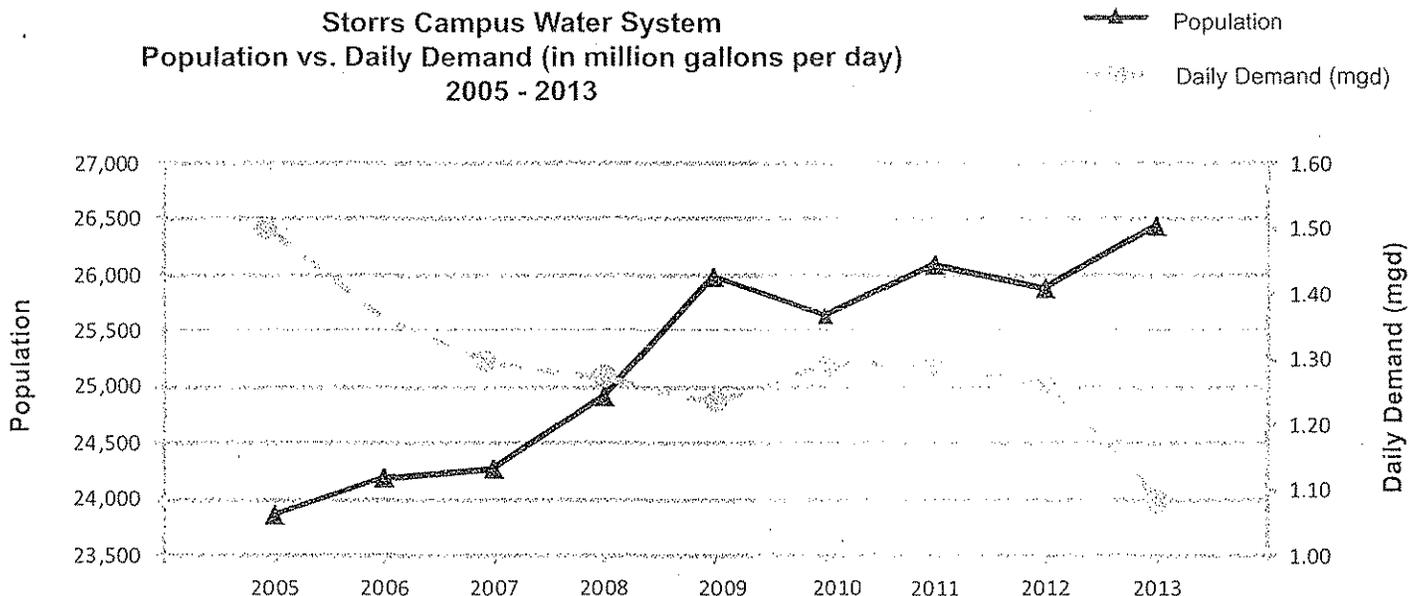


Water Conservation

While our water system does not pump water directly from the local rivers, it does extract groundwater from local aquifers that help sustain them. Extended dry weather naturally reduces streamflow which in turn may stress fish and other biotic stream habitat. That's why we respond with conservation measures of our own and request our customers to conserve water during these periods. UConn and NEWUS appreciate your cooperation and encourage the wise and efficient use of water at all times by applying the following tips:

- Install water-efficient fixtures and equipment, such as water-saving shower heads and toilets.
- Take shorter showers.
- Turn off faucets and showers when not in use.
- Wash full loads in washing machines/dishwashers.
- Limit running water in food preparation.
- Limit outdoor watering to early mornings or evenings, and do not water on windy days.
- Mulch around plants to reduce evaporation.
- Limit running water time when washing a car, or use a car wash.
- Repair leaks:
 - In UConn dorms, promptly report leaks to your Resident Advisor.
 - In other campus buildings, report leaks to Facilities Operations at 860-486-3113.

**Storrs Campus Water System
Population vs. Daily Demand (in million gallons per day)
2005 - 2013**



PAGE
BREAK